DOCUMENT RESUME

ED 381 240 PS 023 049

TITLE	Better Nutrition and Health for Children Act of 1994. Senate Report (To Accompany S. 1614), 103D Congress, 2d Session.
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Committee on Agriculture, Nutrition, and Forestry.
REPORT NO	Senate-R-103-300
PUB DATE	Jul 94
NOTE	168p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC07 Plus Postage.
DESCRIPTORS	*Child Health; Cost Effectiveness; *Federal Legislation; *Federal Programs; Federal Regulation; *Lunch Programs; *Nutrition; Objectives; Policy Analysis; Program Budgeting
IDENTIFIERS	Child Nutrition Act 1966; Congress 103rd; National School Lunch Act 1946; *Reauthorization Legislation; Women Infants Children Supplemental Food Program

ABSTRACT

This report examines the background, purpose, cost, and regulatory impact of Senate Bill 1614, the proposed Better Nutrition and Health for Children Act of 1994. The purpose of the act is to reauthorize and make improvements in various federal nutrition programs, such as the National School Lunch Act and the Child Nutrition Act. The report outlines past federal support for child and family nutrition and the current need for reauthorization changes in such programs. It summarizes four hearings held by the Committee on Agriculture, Nutrition, and Forestry on the proposed legislation and contains a section-by-section analysis of the Act. Congressional Budget Office cost estimates for the Act through 1999 are included. The bulk of the report specifies the changes that the Act will bring about in existing law. (MDM)

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ED 381 240

Calendar No. 506

103D CONGRESS
2d Session

SENATE

REPORT
103–300

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1994

JULY 1 (legislative day, JUNE 7), 1994.—Ordered to be printed

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

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REPORT

[To accompany S. 1614]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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BACKGROUND

The National School Lunch Act and the Child Nutrition Act of 1966 provide authority for Federal financing of meal-service and nutrition programs. These programs, for which Federal cash and commodity support exceeded $10 billion in fiscal year 1993, include the school lunch, school breakfast, child and adult care food (CACFP), summer food service, special milk, nutrition education and training (NET), State administrative expenses (SAE), and com-

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modity distribution programs, as well as the special supplemental nutrition program for women, infants and children (WIC).

Child nutrition programs provide food aid indirectly to children through institutions that operate meal services for children in schools, child care facilities, and summer programs. Meal service programs are designed to assist institutions in offering nutritionally balanced meals to children in their care. The programs are administered at the Federal level by the United States Department of Agriculture (USDA).

Federal support for child nutrition programs originated during the Great Depression, when commodities bought by the government to relieve the price depressing effect of farm surpluses were donated to schools for lunch programs.

The National School Lunch Act was enacted in 1946, at the close of World War II, because so many draftees had failed their physical examinations due to nutrition-related deficiencies. President Truman said then that child nutrition was a matter of national security. Today that is still true.

Today, the program serves more than 25 million meals each day. Although the National School Lunch Program is not Federally mandated, 90% of all schools participate. Half of the 25 million meals served each day are provided free or at reduced price to children from low-income families. In addition, child nutrition is no longer limited to school lunches.

Since 1946, several programs have been added. These programs are designed with special emphasis on the needs of low-income children. The summer food service program helps to fill the gap which is created during the summer when children are not receiving school lunches. This program is targeted to areas where at least 50% of the children qualify for free or reduced-price meals.

WIC, which celebrates its 20th birthday this year, is one of the most effective programs funded by the Federal government. WIC provides nutritious food, nutrition education and health care referrals to low-income women and their children up to age five. WIC has been shown to reduce infant mortality and the incidence of low-birthweight among newborns. In addition, every dollar spent on the prenatal component of WIC saves up to $4 in Medicaid costs for medical problems arising within 60 days after birth.

The WIC Farmers' Market Nutrition Program provides valuable nutrients to at-risk children by increasing their consumption of fresh fruits and vegetables. It is also an example of the longstanding link between child nutrition programs and the agricultural community. This link dates back to 1932 when commodities were first donated to schools. The main goal then was to help relieve farmers and promote agriculture—feeding children was almost secondary. Today, feeding children is the primary goal, but farmers remain vital to the programs.

Federal cash and commodity support for school meal programs represents the second largest source of Federal aid to elementary and secondary schools, and aid for the child and adult care food program is the single largest source of direct Federal support for children in day care.

The authority for most child nutrition programs will expire at the end of fiscal year 1994 unless legislation extending them is enacted. These programs include the special supplemental nutrition program for women, infants and children; the summer food service program, the commodity distribution program, the nutrition education and training (NET) program, the State administrative expenses (SAE) program; the school breakfast start-up grant program; the homeless preschool nutrition program; a two-State demonstration project providing alternative eligibility for the child care food program; and the authorization of funding for the Food Service Management Institute.

The school lunch, school breakfast, child and adult care food, and special milk programs are permanently authorized.

PURPOSE AND NEED

The purpose of S. 1614, the Better Nutrition and Health For Children Act of 1994, is to reauthorize and make improvements to all Federal child nutrition programs. This act will reauthorize programs under the National School Lunch Act and the Child Nutrition Act of 1966, including: the special supplemental nutrition program for women, infants and children (WIC); the school breakfast start-up program; the homeless pre-school nutrition program; the summer food service program; the nutrition education and training (NET) program; and the Food Service Management Institute (FSMI).

In 1993, the National School Lunch Program served approximately 25 million children each school day, over half of them low-income, for a total of 4.2 billion lunches. In addition, approximately 5.6 million children participated in the school breakfast program. Access to these programs is crucial given that children may consume between one-third and one-half of their daily nutrient intake at school.

Although the size and scope of nutrition programs have grown greatly over the last 40 years, the money which is spent now results in even more money saved later. Recent scientific reports have highlighted the important link between proper nutrition and long term health.

A study reported in the Journal of the American Medical Association in November, 1993, listed diet and inactivity—particularly a diet high in fats—as the second leading actual cause of death for Americans. Poor diet has been linked to heart disease, cancer and diabetes.

A USDA study released in October, 1993, found that school lunches provide one-third or more of the RDA for key nutrients. But they also contain an average of 38% of calories from fat and 15% from saturated fat. The Dietary Guidelines recommend intakes of 30% and 10%, respectively. In addition, school lunches were found to have nearly twice the recommended amount of sodium. We must start with our children in promoting good eating habits.

At a time when Congress is focused on health care reform, it is fitting to discuss nutrition programs, especially those addressing pre-natal and child nutrition. Proper nutrition not only improves health, it also saves money. Research has shown that for every dollar spent on WIC, an additional $1.92 to $4.21 is saved in medical costs for newborns and mothers. According to the General Accounting Office, providing WIC services to pregnant women who delivered their babies in 1990 cost the Federal government $296 million, but could save $1.036 billion (present value) in Federal, state, local and private funds over the next 18 years. The savings would come from reduced expenditures on health care, special education and Supplemental Security Income payments.

Children who are well fed are also more prepared to learn. A 1987 study of the impact of participation in the school breakfast program in Lawrence, Massachusetts, found an improvement in achievement test scores, tardiness rates, and absenteeism after a school breakfast program was introduced.

Children whose nutritional needs are ignored suffer health problems both in the long and short term. They are more subject to chronic disease and are more likely to have learning problems. Iron deficiency anemia, which is associated with poor intellectual development, affects 20% of low-income children under the age of two. The programs addressed in S. 1614 can make an early difference in the nutritional health of America's children. They can save medical costs years down the road, and help create an educated and productive American workforce for the 21st century.

COMMITTEE CONSIDERATION

The Committee conducted four hearings on the subject of Child Nutrition Reauthorization.

On March 1, 1994, the Committee on Agriculture, Nutrition, and Forestry met to hear testimony on S. 1614, the Better Nutrition and Health for Children Act.

Chairman Patrick J. Leahy opened the hearing by stating his longstanding commitment to fighting hunger in America. He said that past legislation had been passed through bipartisan efforts and gave special thanks to Senators Lugar and Dole. Chairman Leahy then highlighted the Better Nutrition and Health for Children Act, with particular emphasis on WIC reauthorization, the nutritional problems of homeless children and the issue of boarder babies, who are infants abandoned at hospitals. In conclusion, Chairman Leahy said that this bill is about children, who "are our future as a Nation."

Senator Richard G. Lugar concurred that bipartisan efforts had been responsible for much of the nutrition legislation which had been passed. He added that his bill (S. 88) allowing schools to choose which type of milk they serve would give the schools more flexibility and he thanked the American School Food Service Association (ASFSA) for its support of his measure. The Senator also extended a very special welcome to the members of the Indiana School Food Service Association attending the hearing.

Senator Larry E. Craig applauded the American School Food Service Association for its excellent work. He stated that it is important to keep in mind that the nutrition and energy needs of an eight-year-old are not the same as those of an eighty-year-old. Senator Craig expressed his concern for boarder babies and thanked the Chairman for his work on that issue.

Senator Charles E. Grassley emphasized the important connection between nutrition and agriculture. He stated that nutrition programs benefit not only the children they serve, but the agricultural community as well.

Senator Tom Daschle stressed that eradicating hunger is an issue of morality, as well as an issue of health. The Senator also recognized the members of the South Dakota School Food Service Association attending the hearing, and thanked them for their continued, valuable input on nutrition issues.

Senator Russell D. Feingold concurred that, with all the talk about health care reform, not enough emphasis has been placed on preventive care, of which nutrition is a part. Senator Feingold expressed concern that dairy foods are being blamed for the fat content of school lunches. He stressed that eliminating whole milk will not solve the problem of fat in school lunches.

Senator Mitch McConnell welcomed the Kentucky delegation of the ASFSA and discussed the importance of our meal programs to the cognitive and social development of our children.

The first witness was His Eminence, Cardinal Anthony J. Bevilacqua, Archbishop of Philadelphia, Pennsylvania. He was accompanied by Patrick Temple-West, Nutritional Development Services, Archdiocese of Philadelphia.

Chairman Leahy commended His Eminence for the "foresight of the Archdiocese of Philadelphia and the dedication of Cardinal Bevilacqua" for sponsoring a homeless preschool nutrition program which benefits homeless children in Philadelphia.

Cardinal Bevilacqua spoke of the importance of the homeless preschool nutrition program in providing homeless children with adequate and nutritious meals. He asked the Committee to make the program permanent and available in all qualifying shelters throughout the nation. The Cardinal explained that the homeless often cannot take advantage of other programs which provide food since they have no means of storing food. Cardinal Bevilacqua recommended that the age limit of six be dropped so that all homeless children will be eligible to receive meals.

Cardinal Bevilacqua stated that at present about 2,500 children are being fed in shelters through the program. This number represents only 10% of the 25,000 children under the age of six who are in shelters and in need of such a program. Mr. Temple-West explained that in Philadelphia they are serving about 100 children per day, but that there are probably about 1,000 children who could be fed each day.

Cardinal Bevilacqua added that for many of the children this may be the first time that they eat fruit, vegetables and even milk. The Cardinal noted that the program works "because these children need meals, not food. That is just what this program does for the homeless who have nowhere to take or store food so they cannot take advantage of other government programs * * *." The Cardinal noted that "when one homeless child goes hungry, we are all starved."

The next witness to give testimony was Dr. Shirley Grant, Chief of Ambulatory Care at Johns Hopkins University Hospital. Dr. Grant stated that she is also a board member of the Washington Junior League, and that it was through the Junior League that she became involved in a program for boarder babies.

Dr. Grant stressed that the terms "boarder babies" and "infant abandonment" are controversial. Many of the babies are left, not because the mother does not want them, but because it is the only choice that she has. These mothers believe that their babies are better off without them, in the safety of the hospital, than with them, since they are homeless. The total annual cost of caring for these babies in hospitals, beyond the date they need to stay for medical reasons, is close to $300 million. Dr. Grant testified that leaving the babies in hospitals is "an extremely cost-inefficient way of warehousing infants who unfortunately have no place to go."

Senator Lugar noted the volunteer work his wife has done to help reduce infant mortality.

Dr. Grant then described the prenatal outreach program at D.C. General Hospital, which was founded by the Junior League of Washington, along with the Coalition of 100 Black Women and the Mayor's Council on Infant Mortality. Women in the highest-risk groups were targeted to participate in this program. Nutrition was stressed very heavily. Breastfeeding was also encouraged.

Ms. Angela Holland, a former WIC participant from Washington, D.C., was the next witness to testify. Ms. Holland is the mother of four daughters ranging in age from 10 months to 12 years.

Ms. Holland testified that when she became pregnant with her fourth child, she decided that it was time to make serious changes in her life. She arrived at D.C. General Hospital pregnant, addicted and homeless. She enrolled in WIC and in the Junior League prenatal program. Through these programs, Ms. Holland began to learn "to live again." She testified that her daughter was born healthy and drug-free. She asked the Committee to remember that there are many other women like her who need the help of programs like the one at D.C. General.

The next witness was Dr. Joseph F. Hagan Jr., President of the Vermont Chapter of the American Academy of Pediatrics, testifying on behalf of the American Academy of Pediatrics.

Dr. Hagan stated that healthy eating habits are vital to the growth and development of children. Research has shown that nutrition has an impact on both the development and long-term health of children. He added that an unhealthy diet can lead to poor work performance, hyperactivity and reduced learning ability. He emphasized that we must acknowledge the essential role of childhood nutrition in the development and long-term health of children.

He stated that "many adult chronic disorders such as hypertension and coronary artery disease originate in childhood, and it is possible to modify the development of these disorders by changes in child nutrition."

Dr. Hagan related that the Vermont WIC program is one of the most successful programs in the country. One-hundred percent of eligible applicants are served, and there is no waiting list. Nutrition education and breastfeeding promotion are major components of the Vermont WIC program. Dr. Hagan testified that nationwide, current funding for WIC is only sufficient to serve 56% of eligible children. The AAP strongly supports both full funding of the WIC program and the proposed increase in breastfeeding promotion. Dr. Hagan also noted that it is the Academy's position that the "30%

of calories from fat, and the 10% from saturated fat," rules be calculated on a weekly basis.

The next witness to testify was Ms. Dorothy Caldwell, President of the American School Food Service Association. She was accompanied by Marshall Matz, of Olsson, Frank and Weeda in Washington, D.C.; Jo Busha, Director of Vermont Child Nutrition Programs; and Charles Hughes, President of Local 372, Board of Education Employees, District Council 37, American Federation of State, County and Municipal Employees, New York, New York.

Ms. Caldwell stated that ensuring that children enter the classroom well fed and ready to learn is an important part of health care reform and education reform. She explained that the national school lunch and school breakfast programs are providing more than 30 million meals per day. Nutrition education and training are also being provided.

Ms. Caldwell applauded many aspects of S. 1614, including reduced-price lunch expansion, the Food Service Management Institute, and the new fat/calorie guidelines. Ms. Caldwell also lent her support to Senator Lugar's bill, S. 88, which would allow schools to decide which types of milk they serve.

Senator Thad Cochran emphasized the importance of reducing paperwork burdens on school food service officials and highlighted the role of the Food Service Management Institute.

The American School Food Service Association also urged the Congress to mandate a demonstration project, which would include a school district in each State, to look at the educational benefits of a universal free program, as well as its effect on student participation, administrative costs, nutritional quality of meals and academic achievement.

Ms. Caldwell expressed her concern over the sale of competitive foods. She said that the USDA's School Nutrition Dietary Assessment study found that school lunch participants consumed the recommended daily allowances (RDA) of many nutrients, while those who did not participate consumed as little as 20% of the RDAs. The ASFSA called for USDA to study the effect of for-profit food sales in schools.

Ms. Jo Busha testified next. Ms. Busha is the Director of Child Nutrition for the State of Vermont, a member of the ASFSA and a board member of the Vermont Campaign to End Childhood Hunger. Chairman Leahy welcomed Ms. Busha and other members of the Vermont School Food Service Association.

Ms. Busha pointed out the well-documented link between nutrition and learning, especially with regard to school breakfast programs. Over the last year there has been a 35% increase in Vermont schools participating in the breakfast program. That has meant that 15,500 more Vermont children had access to a breakfast program. Ms. Busha said that she believes that the school breakfast start-up grants played a "major role" in the expansion.

Ms. Busha was very excited about the proposed expansion of nutrition education. However, she expressed concern about the regulatory rigidity of school meal programs. She said that it would be a good idea to replace the school lunch review process with a quality assessment approach. Finally, reinvention of school meals must be at the forefront of education and health care reform. Children must go to school well fed and able to "make the most of their school day."

Mr. Charles Hughes spoke next. Mr. Hughes praised the Committee for finding the money to support nutrition programs, even during very tough times. Mr. Hughes said that the City of New York had experimented with universal feeding and found it to be very successful. He said that it not only eliminated a lot of paperwork, but also eliminated the stigma which is often attached to receiving free lunches.

Mr. Edward M. Cooney, Deputy Director of the Food Research and Action Center (FRAC) in Washington, D.C., was the next witness to testify. Mr. Cooney said that FRAC supports Chairman Leahy's reauthorization bill, S. 1614, and he explained that he would like the bill to achieve three things. First, to make improvements in all child nutrition programs. Second, to broaden access for those eligible children who are not participating. Finally, to implement policies and standards which promote the health status of participating children while positively affecting their growth and development needs.

Mr. Cooney thanked Senator McConnell for his "tireless efforts" on behalf of the child and adult care food program, especially the Kentucky project benefitting low-income children in proprietary centers.

Mr. Cooney referred to FRAC's CCHIP study, which found that 5 million children under the age of 12 go hungry at some point during a given month. Roughly half of the 25 million children who participate in the school lunch program are from low-income families. Despite this fact, the school breakfast program only serves 5.8 million children and the summer food service program 2 million.

Mr. Cooney cited the 1987 Myers and Sampson study, which showed that low-income students who receive breakfast at school have higher test scores, and lower rates of tardiness and absenteeism. School breakfast start-up funds have been cited as the "principal ingredient in the expansion of school breakfast to low-income children."

Mr. Cooney also noted FRAC's support for Senator Lugar's bill, S. 88, which he described as "thoughtful and judicious."

On May 16, 1994, the Committee on Agriculture, Nutrition, and Forestry met again to hear testimony on S. 1614, the Better Nutrition and Health for Children Act.

The second Committee hearing focused on nutrition and health issues, nutrition education and training, and the sale of competitive foods of minimal nutritional value. Under USDA regulations, "foods of minimal nutritional value" include some soft drinks, hard candy, jelly beans, marshmallow candy, spun candy, licorice and chewing gum.

Chairman Leahy opened by expressing regret that the Coca-Cola Company refused to testify at the hearing. He emphasized that the bill clarifies existing regulations which give local authorities the choice of whether or not to ban competitive foods of minimal nutritional value, and said he does not understand opposition to that provision. Chairman Leahy expressed the concern that some local officials were being misled by Coca-Cola or other bottlers into believing that they had to allow soda machines in their schools.

The Chairman explained that good eating habits learned as a child translate into a longer and healthier life. Children who buy soda from vending machines are less hungry at lunchtime and may not have money left to buy a nutritious meal. He said Congress should put the health of children above corporate profits.

Senator Lugar said that the heart of this provision is whether the Federal government or local professionals decide what foods to offer in schools. He said children must be given positive messages about good nutrition and how it fits into a healthy, active lifestyle.

Senator Craig commented that the witnesses, expert nutritionists and people from across the country will clarify issues relating to the Better Nutrition and Health for Children Act.

The first witness was Mr. Maynard "Chip" Baldwin, Principal of Hartland Elementary School in Hartland, Vermont, and President of the Vermont PTA. Mr. Baldwin noted his membership on the National PTA Board of Directors. He praised the Better Nutrition and Health for Children Act and said he is surprised that anyone would fight section 208 (renumbered as section 203 in the reported bill), which confirms the authority of local school districts to choose whether to permit the sale of foods of minimal nutritional value before and during lunch.

The next witness was Ms. Carol M. Meiki, a high school food service employee for Chicago Public Schools and member of the ASFSA. Ms. Meiki pointed out that the diets of American children today influence the amount of money taxpayers will spend in the future on health care. She expressed support for S. 1614 and Senator Lugar's bill, S. 88, which would eliminate the whole milk requirement in school meal programs.

Ms. Meiki explained that vending machines in schools compete with the school lunch program. She noted that one school's food sales dropped by $700 in the first week after soda machines were installed. In a poll Ms. Meiki conducted on May 13, 1994, 136 of 166 school vending machines in her area dispensed carbonated beverages. By decreasing student meal participation, carbonated beverage sales "contributed heavily" to the loss of over 100 jobs within 37 Chicago school cafeterias.

Ms. Meiki highlighted the difficulty in removing vending machines from schools because they generate revenue for schools and because schools receive gifts and cash incentives from companies such as Coca-Cola. She said that without government regulations, Coca-Cola will always win.

Ms. Meiki referred to a letter she had written to all Committee members outlining the practices of Coca-Cola in promoting soda in schools. Coca-Cola provided perks to schools, including large cash incentives, bicycles, computers and catered events. She said it would be "very hard to take all those perks away from school administrators." Ms. Meiki also cited an example in which Coca-Cola distributed free 20-ounce soda bottles in a school lunch room as an advertising technique. She noted that participation in the school lunch program "dropped by half that particular day."

Marilyn Hurt, the Legislative Chair of the ASFSA and supervisor of nutrition programs for Public Schools in LaCrosse, Wisconsin, spoke next. She outlined the ASFSA's priorities regarding child nutrition: (1) amend section 11(a) of the National School Lunch Act so all schools can serve free lunch and breakfast at no extra Federal cost; (2) authorize school meal pilot demonstrations on universal free meals; (3) apply the provisions of the Negotiated Rulemaking Act of 1990 to school nutrition dietary guidelines; (4) delete the requirement that schools sell specific types of milk; (5) fund the school breakfast start-up program and provide expansion grants; and (6) reauthorize the nutrition education and training program and the Food Service Management Institute.

Ms. Hurt said the ASFSA recommends passage of the provision in Senator Leahy's bill (S. 1614) which recommends a ban on competitive foods of minimal nutritional value everywhere on school grounds before and during lunch. She said it is impossible to compete with machines that sell sweet snacks. She said that if students could "go down the hall and pick up something for 50 cents, they will spend their lunch money on that rather than coming through" school lunch lines. The ASFSA believes that food sold in addition to meals should be carefully selected to ensure healthful eating.

The next witness was Jodi Boyce, a high school junior from Iowa representing Kids Against Junk Food. Ms. Boyce said her classmates are on their way to developing diseases like diabetes, cancer and heart trouble. The American Red Cross reported that 39% of Ms. Boyce's high school senior class had high cholesterol.

Ms. Boyce charged that the USDA's ban on foods of minimal nutritional value should extend throughout the school day and should ban foods high in fat and sugar. She detailed all the sweet treats sold in one vending machine located inside the cafeteria of her school, and said students eat these snacks all day instead of a complete lunch. She asked Congress to enact legislation that ensures schools are a healthy environment.

Mr. James R. Elliott, Principal of Thompson High School in Alabaster, Alabama, and representative of the National Association of Secondary School Principals (NASSP), reported that his lunchroom participation has increased in the past two years, despite the addition of vending machines.

Mr. Elliott said he supports Senator Leahy's bill, the Better Nutrition and Health for Children Act, but without the section which addresses competitive foods of minimal nutritional value. He called upon the Committee to ensure that local officials can continue to make decisions without pressure from the USDA. Mr. Elliott expressed fear that a Federal mandate would undermine his ability to have vending machines and receive revenue for school activities.

In response to a question from Senator Howell Heflin, Mr. Elliott reported that his school used $25,000 obtained from vending machines to purchase 15 computers, to build a computer laboratory, and to pay for advanced placement exams for students who could not afford them.

Mr. Elliott argued that participation in school meal programs "has nothing to do with vending [machines]; it has to do with preparation of foods and working with children to make adequate choices." He stated his view that section 208 is "unnecessary." In discussing the alternatives to vending machine sales, he added: "I can send students door-to-door selling merchandise and other fundraising activities. I can place them in harm's way, or I can sell products through vending machines. My students do no door-to-door selling and parents applaud that."

The next witness was Mr. Drew Davis, Vice President of Federal Affairs for the National Soft Drink Association, who opposed section 208. Mr. Davis stated that there is no evidence that existing regulations regarding the sale of soft drinks are ineffective or that soft drinks are incompatible with sound nutrition. Mr. Davis said the USDA's model language would have a coercive effect on school officials.

Mr. Davis concluded by arguing that students who are old enough to drive should also be old enough to choose their own refreshments. He stated that "if secondary-age students are considered by their States responsible enough to obtain drivers' licenses and responsible enough to register for the draft * * * and register to vote, we question whether there is a need for "Big Brother" in the form of USDA injecting itself into their decisions when it comes to refreshment choices."

Mr. Davis was accompanied by Ms. Vala Jean Stults, a registered dietitian. Ms. Stults said that by the time they reach high school, students have already established their eating habits. Ms. Stults praised the USDA's nutritional guidelines, but said that students perceive soft drinks as a refreshment rather than a nutrient and that vending machine sales do not harm child nutrition.

Dr. Ronald Kleinman testified on behalf of the American Academy of Pediatrics (AAP) in full support of the Better Nutrition and Health for Children Act. Dr. Kleinman explained that as children grow, their nutritional needs change. He said school meal programs can provide basic nutrients and reinforce good eating habits. He stated that since school is often the first time children have the independence to choose their own meals, healthy and appetizing food should be offered.

Dr. Kleinman said selling food in vending machines tempts children to buy those foods rather than eat a nutritious meal, and often students will not have money left to buy a healthy lunch. Dr. Kleinman commended the bill, which confirms the authority of schools to limit competing foods when they decide it is appropriate.

Dr. Kleinman concluded by saying that the AAP applauds the legislation which would, among other provisions, improve school breakfast and summer lunch programs, provide meals for homeless children in emergency shelters and increase funding for WIC and its breastfeeding promotion program.

Dr. Rachel Johnson, Professor of Nutritional Sciences at the University of Vermont, testified as a representative of the American Dietetic Association (ADA). She expressed support for both Senator Leahy's bill, S. 1614, and Senator Lugar's bill, S. 88. Dr. Johnson proposed modifications to improve child nutrition programs. She specifically proposed: (1) Increased nutrition education and training so healthy eating becomes a lifetime commitment; (2) improved nutritional quality of school meals so there are more fruits, vegetables and fiber and the total calories in the meals consist of 30% fat and 10% saturated fat per week; and (3) increased access to child nutrition programs.

According to Dr. Johnson, foods which compete with school meals present three problems—they divert children's money from school lunch programs, encourage partial meal consumption, and create an image that school meals are only for needy children.

Dr. Johnson said the ADA commends the Better Nutrition and Health for Children Act because it will provide our nation's youth with the healthy start they need to reach their potential. She supported requiring school meals to meet the recommendations of the Dietary Guidelines, and using a nutrient-based system to allow schools more flexibility in menu planning. She recommended using a weekly average when analyzing the percent of calories from fat and saturated fat in school meals.

Dr. Johnson emphasized the need for increasing the amount of fruit, vegetables, fiber and grain products served in school meals. She noted that "children are not born with good eating habits. They are learned." She also argued that "eliminating the whole milk mandate is one of the ways Congress can give child nutrition programs the flexibility they need to implement positive changes in school meal patterns."

The final witness was Lisa Hodgson, a nutrition educator and training specialist with the Vermont Department of Health in Burlington, Vermont. Ms. Hodgson described the activities of the nutrition education and training (NET) program, and her agency's dedication to providing consistent nutrition education and integrating nutrition into school curricula and early childhood lifestyles.

Ms. Hodgson highlighted the link between diet and health. She reported that diet accounts for 30% to 70% of cancer risk alone and plays a crucial role in five of the top ten causes of death in America. She also noted that the 1988 "Surgeon General's Report on Nutrition and Health" and the 1989 National Academy of Sciences "Report on Diet and Health" identify dietary factors as playing a prominent role in five of the ten leading causes of death for Americans.

Through videos, coalitions, training and teaching teams, Ms. Hodgson said that NET trains teachers, school food service employees and children about dietary needs. In Vermont, NET initiated an eating disorders prevention program and a program called "Mission Nutrition," and NET is working on a comprehensive health education curriculum. She noted that schools present the best opportunity to teach children about good nutrition.

On Friday, June 10, 1994, the Subcommittee on Nutrition and Investigations met to discuss the Better Nutrition and Health for Children Act.

Subcommittee Chairman Tom Harkin began the hearing by emphasizing the important link between good nutrition and a positive future for American children. Senator Harkin said that good nutrition prevents diseases and saves money in health care and education expenditures.

Senator Harkin said he hopes the WIC program will be adequately funded, despite a tight budget. He recommended that programs be consistently reevaluated and recommended finding innovative ways to unite Federal dollars with private initiatives. He added that fighting hunger is a test of our nation's moral conscience.

Senator Craig stated that throughout the hearing he would be concerned with identifying the scientific sources that support each position rather than what is politically correct at the moment.

Senator McConnell stated that $40 billion a year is currently spent on Federal nutrition programs. He also noted the impact of food and nutrition on the health and cognitive development of children. Senator McConnell said the reauthorization process has highlighted two crucial issues: the importance of nutrition education and that the government should leave consumption decisions in the hands of individuals. Senator McConnell concluded by emphasizing the success and his support of the child and adult care food program and WIC.

Committee Chairman Leahy reported that virtually every piece of nutrition legislation for the past 20 years has received bipartisan support. He especially thanked key members of the Committee who have worked together since he has been Chairman, including the Republican Leader, Senator Dole, the Ranking Republican Member, Senator Lugar, and the Chairman and Ranking Member of the Nutrition Subcommittee, Senators Harkin and McConnell.

Chairman Leahy recalled that President Truman signed the first school lunch bill at the end of World War II, saying it was crucial to our national security. He said he is concerned about undernutrition in America because today's children are going to determine what kind of country we are in the next century. He concluded by saying that hunger is a moral issue and hunger should not exist in our powerful nation of plenty.

Senator J. Robert Kerrey of Nebraska stated that some of the most troubling issues in America involve adolescent children. From 1985 to 1991, the rate of violent crimes committed by children and the number of teenage pregnancies and teenage children neither working nor in school increased significantly in his State. Senator Kerrey suggested that perhaps babies be defined as at risk for a 24-month period after they leave the hospital to ensure that they, and their families, receive the health and nutrition assistance necessary for children to mature into a safe and healthy adolescence.

Senator Slade Gorton of Washington was the first witness. He addressed the summer food service program, which provides healthy meals to low-income children during the summer months. Senator Gorton has played a key role in promoting better food use at summer food program sites. Senator Gorton praised the program for providing meals as well as a place for children to interact with others.

Senator Gorton called on the Committee to address the problem of food waste and to review the Food and Nutrition Service (FNS) regulation which forbids children from taking snack items, like cookies or apples, away from the lunch area. Senator Gorton also suggested ideas for promoting all-day activities at summer food service sites.

The second witness was Dr. Carl Sagan, Director of the Laboratory for Planetary Studies at Cornell University and 1994 recipient of the Public Welfare Medal. Dr. Sagan began by noting that undernutrition has been an overlooked factor in child development. He said research shows that children who do not eat enough suffer from cognitive impairment. They become unresponsive, apathetic and have diminished ability to understand and learn. Dr. Sagan cited the success of WIC in reducing the incidence of low birthweight and premature births. But he noted that the program does not reach all those eligible because it is not fully funded.

Dr. Sagan pointed out that the United States is at the low end of industrial nations in infant mortality and literacy. Our country has more than 40 million illiterate adults. He said that America's undernutrition, poverty and ignorance combine to create a "perpetual failure machine." Dr. Sagan asked the Committee to provide funding and take heroic steps to avoid child malnutrition.

Dr. T. Berry Brazelton, a pediatrician at Children's Hospital in Boston and professor emeritus at Harvard Medical School, offered scientific evidence that undernutrition severely affects children's development and activity. Undernourished babies have fewer brain cells, smaller, more vulnerable cells, and sparser brains. Dr. Brazelton said these babies did not have the opportunities for cognitive and emotional acquisitions such as recognizing their mothers' voice. However, Dr. Brazelton said that with proper nutrition and care, babies can reactivate parts of their nervous system that would otherwise have been impaired.

Dr. Brazelton stated that nutrition programs need to reach parents during every stage of a child's development. He said WIC's success is due to the fact that the program instills self-esteem in its recipients. He stressed the importance of continuing WIC and the school feeding programs and added that proper nutrition can only be implemented in a personalized manner.

Dr. Brazelton ended his testimony by explaining the benefits of breastfeeding. Breastfeeding provides milk made for humans, immune bodies that help protect against ambient infections, and an attachment and interaction between mother and child.

The testimony of Dr. Doris Derelian, President-Elect of the American Dietetic Association, focused on the quantitative and qualitative effects of hunger on the classroom activity and academic performance of children from all socio-economic levels. Dr. Derelian explained that children who experience transient hunger display academic deficiencies, such as making more mistakes on problems, losing patience, and coming to class less frequently.

Dr. Derelian said she is surprised that our country will give children pencils and books, but falls short of giving children the nourishment they need to thrive.

Dr. Derelian commented that "one of our serious problems in managing the Dietary Guidelines in schools is the reduction of food energy because you can get a very lowfat diet that has been religiously prepared that is now half the number of calories that a child needs. To be able to keep the calories high enough * * * with no fat or very little fat, a child has to eat four slices of bread; they have to eat a cup of fruit. They have to eat a tremendous volume of food, and that gets not only expensive, but in little kids it is just impossible for them to be able to eat it."

She further added that "for schools and for children, to focus on a single nutrient, and almost at the expense of the total picture of food as it is presented in real life * * * undermines the behavioral possibilities that children have."

The next witness was Susan Kalish, Executive Director of the American Running and Fitness Association. Ms. Kalish emphasized the importance of physical activity for children's development and physical and mental health. She explained that people who exercise are less likely to get involved in crime and drugs and have half the average annual medical claims of sedentary Americans.

Ms. Kalish said children today are not getting enough exercise. She said 40% of children between the ages of five and eight are obese and have high cholesterol levels and blood pressure. Currently, two thirds of American children do not meet the minimum standards for cardiovascular fitness. Ms. Kalish called on the committee to focus on physical activity in schools, in addition to school lunches and nutrition.

Ms. Harriet Holt Cloud, professor emeritus at the University of Alabama and a registered dietitian and nutritionist at the Civitan International Research Center and Sparks Clinics, described the meal modifications required by children with disabilities.

Ms. Cloud stated that 15% of all children have special needs, and 50% of those children are at nutritional risk. She stated that the needs of these children may not be met by the regular school meal. She pointed out that the problem is not necessarily due to unwillingness on the part of school personnel but rather to a lack of training.

Ms. Cloud identified, for example, that children with PKU are unable to eat foods high in protein, while children with cerebral palsy need extra fat and carbohydrates in their diets.

Ms. Cloud said that, to meet these children's needs, several steps must be taken: (1) Send a medical prescription for each child to the school; (2) train school food service personnel; (3) include children in education programs; and (4) design the cafeteria so disabled children have special equipment for seating and eating. She also expressed appreciation to Senator Dole for calling attention to the need to do more to accommodate children with disabilities in school meal programs.

The testimony of Ms. Linda Locke, Director of Public Policy for Coordinated Community Child Care of Louisville-Jefferson County, Kentucky, and President of the National Child and Adult Care Food Program Sponsors Forum, focused on the nutritional status of young children who are not reached by WIC or the school meal programs.

Ms. Locke explained that children may spend ten to twelve hours a day in day care, and preschool children receive 75 to 80 percent of their daily nutrition while in care.

Given the relationship between good child care and good nutrition, Ms. Locke offered recommendations for improving child nutrition: (1) maintain the current reimbursement structure for family day care homes because it assures quality care and nutrition as well as safety and accessibility. (2) expand the Kentucky and Iowa demonstration projects in the child and adult care food program.

The next witness was Dan Cooper, President of the National Association of Farmers' Market Nutrition Programs, administrator of the WIC Farmers' Market Program in Iowa and member of the Iowa Department of Agriculture.

Mr. Cooper noted the benefits and success of the WIC Farmers' Market Nutrition Program (FMNP). Mr. Cooper related one of the many success stories of the food program. In Iowa before the program, 95% of the WIC clients had not shopped at a farmers' market, and now 70% said they shop at the markets when their food benefits are exhausted. Mr. Cooper said WIC participants in the program increased their consumption of fruits and vegetables by 50%.

Mr. Cooper asked the Committee to increase appropriations for the program to $10.5 million. He said the FMNP is 100% positive because every dollar expended stays in the local community and the program has created a relationship between WIC clients and farmers.

Ms. Alice Lenihan, President of the National Association of WIC Directors (NAWD) and Chief of the Division of Maternal and Child Health of North Carolina, testified next. Ms. Lenihan noted that 1994 marks the 20th anniversary of the WIC program. She said that WIC has proven its success in achieving health benefits in a cost-effective fashion.

Ms. Lenihan recommended several improvements to the WIC program, including: (1) Fully fund WIC; (2) allow WIC to use the same definition of family size currently used by Medicaid; (3) consider pregnancy a nutritional risk factor for low-income women; (4) allow States to certify breastfeeding women for up to one year; (5) allow States to use food funds to buy breast pumps for breastfeeding mothers; (6) allow States latitude to meet the unique dietary needs of special needs children; and (7) relieve Indian Nations from matching grant requirements.

The testimony of Ms. Minda Lazarov, a research associate for Nurture, Center to Prevent Childhood Nutrition, addressed the need to increase WIC program funding for breastfeeding education and support. Ms. Lazarov said that there has been an increase in breastfeeding among WIC participants since funding was set aside for breastfeeding promotion four years ago. Ms. Lazarov said success came from providing support through peer counselors and professionals, but the value of care is not consistent from State to State. She proposed a revised allocation of $21 per pregnant and breastfeeding woman. Ms. Lazarov requested that it be made as easy for women to adopt breastfeeding as it is to adopt formula feeding.

The last witnesses were Ms. Carol Porter and Mr. Hurt Porter. Ms. Porter is the Vice President of Kid Care, the first meals on wheels program for kids. Mr. Porter explained that Kid Care delivers over 18,000 meals a month to Houston's hungry children with the help of corporations that have joined hands with the nonprofit sector.

Ms. Porter asked the Committee to change Federal statutes that affect nonprofit organizations so millions of hungry Americans can be fed. She closed by saying that the Government must encourage the private sector to work with volunteer organizations to improve the quality of life for our children and for the generations to come.

On June 17, 1994, the Subcommittee on Nutrition and Investigations met to hear testimony on S. 1614, the Better Nutrition and Health for Children Act.

Subcommittee Chairman Harkin explained that this hearing would focus on the important link between proper nutrition early in life and good health later in life. Senator Harkin emphasized the Committee's "responsibility to ensure that our national child nutrition programs reflect the reality of this new scientific knowledge about the link between diet and health."

Senator Harkin commended Assistant Secretary Haas for all of her work, with particular emphasis on the School Meals for Healthy Children Initiative. He said that a balance will have to be struck between reducing fat and sodium in the lunches while providing adequate calories and nutrients.

Senator McConnell also praised Assistant Secretary Haas for her efforts, but expressed concern that the proposed nutrient-based menu plan moves too far away from an emphasis on the four food groups and eating a variety of foods. He also voiced his concern that too much of a burden may be shifted to State agencies. Finally, Senator McConnell reminded everyone that the meals must be ones that the kids will eat and enjoy.

Senator Craig stated that while the lunch program is improved, it must continue to serve the largest number of students possible. He referred to a lesson learned when he first came to Congress. He said that school lunch prices were raised and many children ceased to buy their lunch at school. The result was that the program lost customers and suffered. School lunches must consist of foods that are both familiar and well liked by the children.

Senator Craig referred to a Canadian study which led to the Canadian government's decision to adjust their fat guidelines. He emphasized that we must be concerned about school meal content as it relates to the critical growth years of our children. Senator Craig also expressed concern regarding the availability of computers and the cost to small school districts of implementing the Department's proposed new school meal initiative.

The first witness to testify was Ellen Haas, Assistant Secretary, Food and Consumer Services, United States Department of Agriculture, accompanied by William Ludwig, Administrator, Food and Nutrition Services, and George Braley, Assistant Administrator.

Ms. Haas reminded everyone that the school lunch program was established by President Truman to "ensure the health and well-being of the nation's children." Today, the mission has not changed, but our nutritional knowledge has. Not only do the meals children eat shape their adult health, but studies have shown that eating patterns are established by the age of twelve.

Ms. Haas explained that the Dietary Guidelines for Americans are updated every five years by an expert panel appointed by the USDA and the Department of Health and Human Services (HHS). However, USDA regulations do not require schools to comply with these guidelines. Ms. Haas explained that the Department's new initiative took a year to develop. The Department held four field hearings. In-depth meetings also occurred with a wide range of advocacy and interest groups.

Ms. Haas went on to say that the USDA's School Meals Initiative For Healthy Children is organized around a four-point "framework for action." The first is eating for health and meeting the dietary guidelines. This point includes the standard of 30% of calories from fat and 10% from saturated fat. The second point is the introduction of NuMenus. NuMenus uses computer software and a USDA-developed database to help plan school meals. Smaller schools will be able to pool their resources with other schools. USDA-developed menus will also be available. Implementation and compliance will be required by the 1998 school year.

The third element of change which Ms. Haas identified was to make sure that all resources are being used to their maximum potential. This includes the improvement of the commodity program. Commodities will begin carrying nutrition labels. Finally, pilot programs will be developed allowing schools access to local fruits and vegetables. This will have the added effect of supporting local farmers.

Ms. Haas testified that the administration of school meal programs will be streamlined. Paperwork will be reduced and some regulatory requirements will be eliminated. Schools with proven records will no longer be required to perform edit checks. Nonprofit status will no longer need to be documented. Direct certification for Food Stamp and AFDC households will be promoted, and the coordinated review cycle will be changed from four to five years.

Ms. Haas stated that 1998 is the proposed compliance deadline because there are 92,000 schools, some in big cities, others in very rural areas. All of these schools are different, with different approaches to the services they offer. Many of the schools will be able to comply prior to the deadline.

Ms. Haas noted that a la carte lines, which many schools have, are not included in the new guidelines because they do not receive Federal funding. She also stated that trimming the fat in school meals does not mean increasing the cost of the meals.

The next witness to testify was Ms. Elizabeth Hanna, Director of Food Services, West Des Moines Community School District, West Des Moines, Iowa. Ms. Hanna expressed support for the USDA's efforts to improve the nutritional quality of school meals. However, Ms. Hanna did express concern that breakfast and lunch would not be allowed to be averaged. She explained that a lowfat, high carbohydrate breakfast does offset a higher fat lunch.

According to Ms. Hanna, it may be unrealistic for schools to use USDA prepared menus, given the vast size and diversity of the United States. Differences in taste in different areas will affect the popularity of certain meals. She went on to say that in her district the more affluent students are not buying the school lunch. Those students who are eligible for free or reduced-price lunches do not take them, because their friends are not eating them.

Ms. Hanna said that vending machines also pull a lot of students away from the school lunch program. Vending machines that are in cafeterias are required to be turned off during lunch hours. However, if they are not in the cafeteria, even if they are right outside of it, they may be left on at all times.

Ms. Dorothy Wood, Food Service Director for Anamosa Community Schools in Anamosa, Iowa, said that she was concerned about the proposed regulations. She stated that she is not a registered dietitian and is in a single-person office. Ms. Wood expressed her appreciation for the 1998 deadline, and said that she hopes that nutrition education and technical assistance will enable her to reach that goal.

The next witness to testify was Elizabeth K. Johnson, M.S., R.D., Manager of Food Policy, National Cattleman's Association, on behalf of the Commodity Distribution Coalition, Washington, D.C. Ms. Johnson observed that the original mission of the school lunch program has not changed. She said that for low-income children the lunch that they receive at school may be their main source of nutrition. Accordingly, it is especially important that school lunches meet the needs of these children, to promote growth and reduce the risk of chronic disease.

Ms. Johnson referred to USDA's recently released study which showed that deficiencies of zinc, calcium and B vitamins are quite common in children. USDA will be monitoring calcium, iron, vitamin A and vitamin C. However, they will not be monitoring zinc and B vitamins.

Ms. Johnson summarized the position of the Commodity Distribution Coalition. The Coalition supports a strong commodity distribution program which provides nutritious foods while being cost-effective. It supports a school feeding program which meets the growth and development needs of the children it serves. Finally, the coalition believes that natural sources of vitamins and minerals should be given preference.

The next witness to testify was Dr. Allen Rosenfeld, Public Voice for Food and Health Policy, Washington, D.C. Dr. Rosenfeld said that Public Voice is very pleased with the proposed nutrient-based meal planning and the emphasis on education, technical assistance and nutrition labeling.

Dr. Rosenfeld recommended several improvements to the regulations. First, he argued that schools should meet all Federal dietary recommendations, not just the ones for fat and saturated fat. Second, schools should meet these recommendations by the 1995-1996 school year. Third, school meals program guidelines should be updated as the U.S. Dietary Guidelines are amended. Fourth, USDA should introduce more lowfat commodities for distribution to school meal programs.

Dr. Rosenfeld also expressed concern over a la carte foods and other competitive foods. He recommended that all such foods, including vending machines, should promote the Federal dietary recommendations. He recommended that Congress make USDA's proposed changes permanent. The health of our nation's children must not be left to changing policies of future administrations.

Nancy Chapman, MPH, R.D., testified next on behalf of the American Heart Association, Washington, D.C. Ms. Chapman explained that she was present as a volunteer and that she had been a volunteer for the American Heart Association for the past fifteen years. Ms. Chapman stressed that the Heart Association supports the efforts of the administration to improve the school lunch program. The school lunch program can be an integral part of preventive health care. Cardiovascular disease begins early in life and a proper diet will reduce the instances of heart disease, stroke and heart attack. She noted that the findings of the National Institute of Health's CATCH study, the Bogaloosa long-term study on heart disease, and the "Surgeon General's Report on Nutrition and Health" all support AHA positions relating to nutrition policy.

Ms. Chapman testified that heart disease is not only an adult problem. One in every 15 adolescents and one in every twelve children have hypertension. Thirty-six percent of Americans under the age of 19 have cholesterol levels which are considered too high and 57% are over-weight. American children consume more high fat and high cholesterol foods than their peers in other countries. Ms. Chapman acknowledged that creating appealing lowfat menus with adequate calories is a challenge. However, she added that the Heart Association has created a program called the "Hearty School Lunch Program." This program has a variety of meals which are flexible while meeting all of the guidelines.

The final witness was Michael F. Jacobson, Ph.D., Executive Director, Center for Science in the Public Interest, Washington D.C. Dr. Jacobson asserted that while much concern had been voiced about the need to maintain enough calories for proper growth, that much of that growth has been occurring in the wrong direction. Obesity is a serious problem and one which has been getting worse and worse over the past 30 years. Obesity, Dr. Jacobson maintained, is as much of a problem in minority and low-income areas as in affluent areas.

Dr. Jacobson expressed some concerns about the proposed regulations. First, he argued that four years is much too long to wait for implementation. Second, sodium levels should also be limited. Finally, there are too many "temptations." Vending machines, a la carte lines and fast foods are now in many schools, and Mr. Jacobson recommended that USDA be given the authority to regulate these foods. Dr. Jacobson expressed particular concern that many students are drinking soda rather than milk. He added that he would like to see the whole-milk requirement eliminated.

Dr. Jacobson cited autopsy studies and other studies of young Americans as evidence that the diets of young people affect their health. He was concerned that Taco Bell has their products in 3,000 schools and that Pizza Hut is delivering pizza or has pizza stands in over 4,000 schools. He called for a General Accounting Office study on the potential impact of fast foods, a la carte sales and vending machines on children's diets and health.

The Committee met on Wednesday June 22, 1994 to mark up S. 1614.

Chairman Leahy offered a motion to favorably report the bill, S. 1614, with an amendment in the nature of a substitute, to the Senate. The motion was agreed to by voice vote. Included in the bill were provisions of S. 88, Senator Lugar's bill dealing with school lunch program milk requirements and provisions of Chairman Leahy's bill S. 1269, the School Lunch Protection Act of 1993.

SECTION-BY-SECTION ANALYSIS

SECTION 101. DELIVERY OF COMMODITIES

This provision gives the Secretary the flexibility to deliver commodities purchased in one school year by September 30 of the following school year. Current requirements state that deliveries must take place by June 30. However, when commodities are delivered close to the end of the school year, they must often be stored over the summer months. This change is intended to reduce both storage costs and the likelihood of spoilage.

SECTION 102. COMBINED FEDERAL AND STATE COMMODITY PURCHASES

This provision allows schools to "piggy-back" on Federal commodity purchases, taking advantage of USDA's greater purchasing power. At the request of a State, the Department could withhold reimbursement funds for the purpose of purchasing additional commodities. The enhanced purchasing power of large Federal procurement should result in savings to schools.

SECTION 103. NUTRITIONAL REQUIREMENTS

On June 10, 1994, the Department published regulations which would update nutritional requirements for school meals. The Committee supports incorporating current nutrition knowledge into the school lunch and breakfast programs. Technical assistance will help ensure that any new nutritional content requirements are implemented effectively.

This provision requires the Secretary to provide technical assistance to schools and other program participants to assist in meeting the nutritional requirements under the school lunch program. Assistance would include training in the preparation of lower-fat versions of menu items commonly offered in the school lunch program, and in providing appropriate meals to children with medically certified special dietary needs. The Committee notes that the dietary guidelines are not appropriate for some children with such special dietary needs. The Committee thus wants to ensure that the technical assistance provided to States and schools by the Department takes these children's special needs into account.

The Committee is especially concerned that small or rural schools may need additional technical assistance to meet the new requirements.

The Committee recognizes that lower-fat versions of commonly used commodities in school lunch, such as cheese and beef, may not exhibit the same performance or taste characteristics of their higher-fat counterparts. As such they may be more difficult to incorporate into school meals. In order to be certain that those commodities continue to play a role in school meals, this provision would require the Secretary to take steps to be sure that school food service personnel are properly trained in the use of lower-fat versions of commonly used commodities.

The Committee recognizes that lower-fat versions of commonly used commodities may not currently be available in the amount needed by schools to incorporate into the Secretary's proposed nutrient standard menus. The Committee expects the Department to facilitate to the extent practicable the dissemination of information regarding the availability of these foods, and to facilitate the purchase of these commodities by schools.

In implementing the proposed dietary requirements for school lunch and breakfast programs, the Committee also encourages the Department to assist schools in developing menus which make use of dry edible beans. Dry beans are an excellent source of nutrients needed for the healthy development of children, including protein, iron, calcium, complex carbohydrates and fiber. Dry beans contain virtually no fat and are low in cost. In addition, dry edible beans are ideally suited for use in the school lunch program because they are versatile and easy to store.

The provision clarifies that minimum nutritional requirements shall be measured by not less than the weekly average nutrient content of school lunches. The Committee intends for this measurement to be applied if and when the Department's proposed new nutrient standard rule goes into effect; it is not relevant under the current meal pattern.

This weekly average language is based on recommendations made by expert witnesses, including a representative of the American Academy of Pediatrics, testifying before the Committee on this legislation. The Committee also encourages an emphasis on foods which are naturally good sources of nutrients.

The Committee instructs the Secretary to implement the dietary guidelines so that meals provide an average, as opposed to a maximum, of 30% of calories from fat. This follows a recommendation of the American Academy of Pediatrics. For many children, particularly low-income children, school meals may provide their main source of nutrients for the day. For these children, it is important to make sure that they receive sufficient calories to grow and develop. Reducing the fat content of meals carries a risk of lowering caloric intake. The Committee wants to ensure that in implementing fat guidelines, the total health of children is considered, including the need for calories.

The Committee asks the Department to consider permitting schools to calculate the nutrient content of breakfast and lunch together, at least for those schools with a high rate of breakfast participation.

The Committee understands that the Department's proposed regulations will replace the current food-group-based meal patterns and make meals eligible for reimbursement based on their nutrient content. The Committee is especially pleased that this change will make yogurt an allowable food as part of a school breakfast or lunch. Lowfat yogurt is a good source of vitamins, minerals and protein, and has become increasingly popular with children.

While the proposed regulations allow States until 1998 to implement the dietary guidelines, the Committee strongly encourages schools to implement the guidelines concerning fat and saturated fat as soon as possible. The Committee instructs the Secretary, to the maximum extent possible, to assist schools and State education authorities in implementing the new nutrient standards for meals. The Secretary should also encourage schools to inform parents and students as to the nutritional content of school meals, and assist them in doing so. The Committee requests that the Secretary continue to update the Committee on all the above efforts.

The Committee is also concerned about the impact of some a la carte items and other competitive foods on the nutritional health of children. As it seeks to improve the nutritional value of school meals, the Department should also examine the role these foods play.

SECTION 104. ELIMINATION OF WHOLE MILK REQUIREMENT

This provision replaces the current requirement that schools offer both fluid whole milk and fluid unflavored lowfat milk. Schools would instead be required to offer any type of fluid milk, except that a State education agency may require schools in the State to offer specific types of milk to students.

The Committee recognizes the importance of fluid milk in school meal programs as it is a nutritionally unequivalent food. Without fluid milk, school meals would have difficulty meeting the Recommended Dietary Allowances for calcium as well as other vitamins and minerals in fluid milk. Thus, fluid milk shall remain a mandatory offering in school meals regardless of whether the overall meal pattern is changed by the Department.

The Congressional Budget Office (CBO) has estimated that eliminating the requirement that whole milk be offered in school meals is likely to result in an increase in both Commodity Credit Corporation butter purchases and Federal dairy program costs as decreases in whole milk consumption in school meals result in increases in milkfat surpluses. The Committee recognizes that the reduction in whole milk consumption could affect dairy farmers of this country. As such the Committee requires the Secretary to estimate each year the amount by which CCC milkfat surpluses are expected to rise, if any, due to the elimination of the whole milk requirement. The Secretary shall estimate each year what milkfat surpluses would have been had the whole milk requirement been in place compared to what they are expected to be for that year. The Secretary shall make such estimate based on data provided by the Office of Management and Budget. This section also requires that the Congressional Budget Office provide this Committee with a report on whether the director of CBO concurs with the Secretary's estimate.

The Secretary shall, that same year, purchase on a bid basis, an amount of lowfat cheese that is the milkfat equivalent of the amount of milkfat the Secretary estimates will be in surplus as a result of the removal of the whole milk requirement for that year. This lowfat cheese is to be used in school feeding programs and must be in addition to the amount of total cheese purchased historically by USDA from the commercial market to meet the needs of the school lunch program. The Committee recognizes that schools may have difficulty in transitioning to lower fat cheese products. These additional lowfat cheese purchases should be used to help schools make that transition.

This provision further directs the Secretary to take all steps practicable to be sure that these additional lowfat cheese purchases provided by USDA do not displace commercial cheese purchases made by schools. To that end, the Secretary may wish to use these additional cheese purchases for training and technical assistance provided to school food service personnel in carrying out the provisions of section 103 of this bill.

The Committee is very concerned about continued reports of calcium deficiency among school-age children. Milk and dairy products are the single greatest source of calcium for school-age children.

Schools, whenever possible, are encouraged to include lowfat dairy products in meal planning.

SECTION 105. USE OF FREE AND REDUCED-PRICE MEAL ELIGIBILITY INFORMATION

This provision limits the disclosure of information, obtained by a school from applications for free or reduced-price meals, to the income eligibility status of the child, unless consent to disclose additional information has been obtained from the parent or guardian of the child.

The provision limits the disclosure of such information to individuals directly connected with the administration or enforcement of child nutrition programs, State Health or Education authorities (other than Medicaid), the Comptroller General for authorized audit and examination, and law enforcement officials for the purposes of investigating violations of those programs.

The intent of this provision is to reduce the paperwork burden on low-income families and State or local education and health officials. The Committee wants to ensure, however, that personal income information is not provided to unauthorized individuals without the specific consent of a child's parent or guardian.

To deter misuse of information, the provision establishes fines of not more than $1,000 or imprisonment of not more than one year, or both, for the violation of Federal law regarding disclosure.

SECTION 106. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS

This provision makes children who are income-eligible for Head Start automatically eligible for free meal reimbursements under the child and adult care food program (CACFP). CACFP provides meals to the great majority of Head Start participants. Although children who are income-eligible for Head Start necessarily meet CACFP income guidelines, current law requires eligibility information to be specifically processed to establish eligibility for CACFP. This provision will result in paperwork savings for Head Start programs.

SECTION 107. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES

This provision requires State agencies to provide, through the Nutrition Education and Training (NET) program, training aimed at improving the quality and acceptance of school meals. The Committee believes that such training should be a part of the activities offered by the NET program.

SECTION 108. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS

This provision contains two amendments specifically designed to reduce the administrative burden associated with processing income eligibility applications for all students.

The first amendment modifies the existing meal count alternative referred to by regulation as "Provision 2." Provision 2 allows schools which serve free meals to all students to collect income eligibility applications only in the first year of a three-year period.

Reimbursements are based on eligibility percentages and daily meal counts in the second and third years. The amendment allows schools currently participating in Provision 2 to operate without collecting eligibility information for an additional two years beyond the current three-year period, if available socioeconomic data demonstrates that the income level of the school population has remained stable. Such schools can then reapply for additional five-year periods. Individual applications would have to be taken in the first year of each period.

The provision also establishes a new administrative flexibility option, or "Provision 3." Under Provision 3, a school can choose to serve free meals to all children during a four-year period. Each participating school would receive its previous year's total reimbursement (including cash and commodities), adjusted for inflation and enrollment, making it unnecessary to collect eligibility forms for that period.

Any difference between the cost of serving all meals free and the level of Federal reimbursement would have to be paid by non-Federal funding sources. At the end of a four-year period, schools could reapply for additional periods. Reapplications would be approved if socioeconomic data demonstrated that the income status of the student population had remained stable.

The Committee expects that these options will be particularly useful to schools with high rates of free and reduced-price participation by alleviating the need to process income eligibility forms every year, and the need to record daily meal counts by reimbursement category.

SECTION 109. DEFINITION OF A SCHOOL

This provision removes an obsolete provision in the National School Lunch Act pertaining to child care centers in Puerto Rico.

SECTION 110. REIMBURSEMENT FOR MEALS, SUPPLEMENTS, AND MILK UNDER CERTAIN PROGRAMS CONTINGENT ON TIMELY SUBMISSION OF CLAIMS AND FINAL PROGRAM OPERATIONS REPORT

This provision codifies current operational procedures concerning the timely filing of reimbursement claims in all programs.

SECTION 111. ORGANICALLY PRODUCED AGRICULTURAL PRODUCTS

This provision requires the Secretary to make available, at the request of State agencies and schools, information about means for schools to obtain organically produced agricultural products. This provision would take effect on the date the Secretary establishes an organic certification program in accordance with the Organic Foods Production Act of 1990.

SECTION 112. FOOD AND NUTRITION PROJECTS

This provision authorizes grants to demonstrate food and nutrition projects that are fully integrated with elementary school curricula. Similar projects have been very successful at integrating nutrition education with other subject areas. For example, the Common Roots project of Food Works, a nonprofit educational organization in Vermont, has been praised by educators and administrators as an effective educational tool. The Committee hopes to encourage such projects throughout the United States, and to develop models that can be shared by schools and States.

SECTION 113. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

This provision reauthorizes the summer food service program, which provides Federal funds for meals served during the summer months to children through programs operated by schools, local municipal or government agencies, or certain nonprofit private sponsors. The program is targeted to "areas in which poor economic conditions exist."

The provision revises priorities for selecting program sponsors, removes the one-year waiting period for private nonprofits to operate a summer food site previously operated by a school or government sponsor, and requires the Department to inform both private nonprofit and public summer food sponsors of program requirements in the same manner.

The provision allows for meal service at summer food service sites during the school year in the event of an unanticipated school closure. The intent of the Committee is to ensure that children can still receive meals if a school is closed due to building repair, natural disaster or other cause. The provision amends requirements for reporting on food management companies to just those not performing satisfactorily. It also gives States the option of refusing to hear appeals which result from Federal review findings. In these cases, USDA would hear the appeals.

The Committee is concerned that the program is underutilized at this time. Over 12 million low-income children receive free and reduced-price lunches every day during the school year, but in 1992, only 1.9 million children ate meals at a summer food service site. If the good nutritional status and health of children fed during the school year through the breakfast and lunch programs are to be maintained, attention must be paid to their access to food during the summer months.

For this reason, the Committee has expanded the scope of start-up grants provided for the school breakfast program to include the summer food service program as well. If the success of the grants in expanding school breakfast participation is replicated, then many more low-income children can be provided with nutritious meals when school is out.

The Committee is also concerned with the problem of wasted food in the program, since children are required to take all items offered to them as part of the reimbursable meal and cannot take food off-site. The Committee requests that the Secretary clarify to summer food service sponsors options to avoid waste and deal with leftovers, such as varying portion size and instituting "share tables" where children may return whole items that they choose not to eat, provided that this is in compliance with State and local health and safety codes.

SECTION 114. COMMODITY DISTRIBUTION PROGRAM

This provision reauthorizes the commodity distribution program and requires the Secretary to improve the nutritional quality of the entitlement commodities provided to schools. The provision also requires that commodities provided to schools be labeled with nutritional content information, so that those commodities can be used more effectively to produce nutritious meals.

The Committee encourages the Secretary to increase purchases of lower-fat versions of commodities currently provided to schools. The Committee further encourages the Secretary to make available to schools information about the availability of lower-fat versions of commonly used products, to assist them in meeting the dietary guidelines.

SECTION 115. CHILD AND ADULT CARE FOOD PROGRAM

The child and adult care food program (CACFP) provides reimbursement for meals provided to individuals enrolled in child care or adult day care centers. This provision extends the length of time for which a child and adult care food sponsor can be approved from two to three years, and allows child and adult care food program administrative funds to be used for outreach to unlicensed day care homes.

The provision requires the Secretary to provide to families of children participating in the program, through State agencies, information concerning the special supplemental nutrition program for women, infants and children. It also encourages States to provide information and training concerning child health and development to family or group day care home sponsoring organizations.

The provision reauthorizes State-wide pilot projects underway in Kentucky and Iowa. The pilots allow for-profit child care centers to be eligible for meal reimbursements if 25% of the children are from families with incomes below 185% of poverty. Over 14,000 children have participated in the pilots, and approximately 57% of them are low-income. A USDA study on the pilots found that they were successful in increasing the number of centers and low-income children participating in CACFP, and in improving the number and quality of meals served to children in participating centers. The Committee recognizes that additional low-income children in other States would receive benefits if this pilot were expanded, and the Committee urges the Secretary to identify such States.

The Committee also instructs the Department to review the appropriateness of the $100 error limit in the child and adult care food program, especially regarding large sponsors. The Secretary should consider conforming CACFP disregards with those of the School Lunch Program. The Secretary is also directed to review the policy on classification of child care centers and day care homes, and to report to the Committee within 180 days of enactment.

Adult day care centers are an important and growing community-based care option for frail older individuals. Adult day care has been successful in delaying or preventing nursing home placement. This translates into enhanced quality of life for participants and their family members, and cost savings for society at large.

Although CACFP reimbursement is currently available to adult day care centers, participation in the program is low. The Food and Nutrition Service (FNS) stated in April 1994 that only 42% of eligible adult day care centers participate. The Committee believes that even this figure is artificially high, because the field of adult day care is growing so rapidly that official statistics simply cannot keep pace with the number of centers. The pool of eligible centers may be greater than FNS estimates.

According to practitioners in the adult day care field, barriers to participation in the program are: lack of knowledge about the program; lack of understanding about how to utilize the program; and difficulties with the program paperwork. Because CACFP can be a key source of support for an important community-based care option, the Committee strongly urges the Secretary to take steps to make the program more accessible to adult day care centers.

The Committee instructs the Secretary, to the maximum extent practicable, to conduct an outreach and information program about CACFP, aimed at adult day care centers, in conjunction with the Administration on Aging (AoA) and the National Institute on Adult Daycare (NIAD), the national membership organization for adult day care centers. The Secretary should report back to this Committee on the barriers to participation in the program, and the potential for using direct certification of eligible individuals to streamline the program for adult day care centers.

The Committee also feels that USDA and AoA should provide technical assistance to adult day care centers, through State administering agencies, to facilitate their participation in the CACFP. As a part of this effort, USDA should provide more specific information on eligibility of adult day care centers. For example, information about using combinations of funding streams without commingling funds and losing eligibility status should be provided.

The adult day care eligibility criteria for the program should also be addressed. The Committee has anecdotal information indicating that some State administering agencies take an unduly strict view of the eligibility criteria, resulting in similar programs being eligible in some States and ineligible in other States. USDA should provide much more clear guidance on this point, in conjunction with NIAD and/or AoA.

Lastly, the Committee urges USDA to conduct a thorough review of paperwork and claiming procedures in use for CACFP. The Secretary should provide information to Congress on the potential for developing forms for adult day care centers which collect all the necessary information but are applicable to the specific nature of their program and remove unnecessary requirements that apply only to child day care centers.

SECTION 116. HOMELESS CHILDREN NUTRITION PROGRAM; DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES

This provision makes permanent the homeless preschool children nutrition program and secures funding for the program of $3 million a year. The success of the program was documented in two follow-up reports by the Department.

Homeless children are particularly vulnerable to the threat of undernutrition and their numbers are growing. It is important that their nutritional needs be met so they can grow and develop, and be ready to learn in school. A homeless child bears innumerable burdens. It is essential that everything possible be done to make sure that hunger is not one of them. USDA reported that meals served to children under the program were "more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices" than they would otherwise receive.

The provision also establishes a pilot project for the prevention of boarder babies. The term boarder babies applies to babies that remain in the hospital even after they are medically able to leave. The baby may be abandoned, or the mother may simply have no home where she can take the infant. Under the pilot, grants totalling up to $400,000 a year in 1995 through 1998 will be made to shelters for homeless pregnant women, infants, and the mothers or guardians of those infants. The grants will provide for coordination with the special supplemental nutrition program for women, infants and children, as well as additional food and nutrition services.

The idea for the pilot project came from a program called the "Sunshine House," in Washington, D.C. The Junior League of Washington and the Temporary Emergency Residential Resource Institute for Families in Crisis (TERRIFIC) joined to form the program in an effort to provide comprehensive assistance to keep babies with their mothers; get healthy babies out of the hospital sooner; counsel mothers on how to nurture their infants; counsel families on proper nutrition; and assist those families in finding permanent housing and employment.

Federal funding would enable them to provide food and nutrition services to pregnant women, infants, and homeless mothers and guardians.

SECTION 117. PILOT PROJECTS

This provision requires the Secretary to make available to school districts information concerning fortified milk, and authorizes pilot projects to test the acceptability and impact of fortified milk. This idea was suggested by Senator Jeffords and would provide authority to the Secretary to conduct pilot projects in at least 25 school districts in widely distributed geographic areas. The Secretary shall select participants based on school interest and the availability of fortified milk.

The provision also authorizes pilot projects to assist schools in offering increased choices of fruits, vegetables, legumes, cereals and grain-based products, including organically produced agricultural products, to help them improve the nutritional quality of meals provided to students.

The provision further authorizes pilot projects to assist schools in offering increased choices of lowfat dairy products and lean meat and poultry products, including organically produced products, to help them lower the fat content of meals provided to students.

SECTION 118. FOOD SERVICE MANAGEMENT INSTITUTE

This provision reauthorizes the Food Service Management Institute. Congress established the Food Service Management Institute [FSMI] to conduct activities to help improve the quality and operation of child nutrition programs.

The Committee strongly urges the USDA to use this resource to assist schools in meeting the new nutritional requirements under its proposed regulations. The FSMI has the infrastructure for cor ducting research, education and training in a cost-effective manne

The Committee strongly encourages the Department to enter into an agreement with the Institute to assist in carrying out the education and training goals of the Secretary's initiative.

SECTION 119. COMPLIANCE AND ACCOUNTABILITY

This provision requires the Office of Technology Assessment to report on the status of the coordinated review system, its advantages and disadvantages, and the cost impact of the system on schools.

The Committee recognizes State concerns regarding the burden of the Coordinated Review Effort (CRE). The goal of CRE should be to ensure the accuracy of meal reimbursement data and assist schools in meeting program requirements, while presenting the least possible burden to schools.

In light of the existing requirements under CRE, the Committee is concerned about the burden on States as they attempt to implement any substantial changes in school meal nutritional requirements instituted by the Secretary. The Committee intends to review this issue following completion of the OTA report, and recommends that the Secretary continue to examine this issue.

SECTION 120. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NONPROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS

This provision promotes the prevention and deterrence of fraud, bid-rigging and other anti-competitive activities in the procurement of products for child nutrition programs. The Committee was concerned that USDA, in the past, had failed to take action against dairies whose officers were convicted of serious crimes involving the sale of milk to the school lunch and breakfast programs.

The provision establishes guidelines and a timetable for the Secretary to initiate debarment proceedings, establishes mandatory debarment periods, and provides States and local agencies with training, technical assistance, advice and guidance on preventing fraud and anti-competitive activities.

Testimony and information provided by the General Accounting Office and the Department of Justice about the growing number of successful prosecutions for bid-rigging, price-fixing, and other anti-competitive activities affecting Federal child nutrition programs, prompted the Committee to add this new section to the National School Lunch Act.

The Committee appreciates the aggressive role taken by the Justice Department and by GAO in exposing these problems. Fraud and anti-competitive activities cost American taxpayers and shortchange our nation's children.

This new section requires the Secretary of Agriculture to initiate debarment proceedings under certain circumstances and by set time periods when in receipt of information which may lead to debarment. For example, these provisions would be applicable if a contractor were convicted of crimes such as fraud, bribery, theft, forgery, embezzlement, bid-rigging, price-fixing, or obstruction of justice regarding child nutrition programs.

The Secretary is required to debar persons convicted of such crimes for a period of at least one or three years, depending on the number of convictions, unless certain findings are made. The provision "presumes" debarment if there is a conviction unless certain conditions are established.

The provision provides that the Secretary will make exceptions to mandatory debarment in cases where the action: will have an adverse effect on competition or prices; will interfere with the ability of an agency to procure needed products; is unfair to individuals not involved in the improper activity; will have significant adverse economic impacts; is not justified in light of penalties already imposed; or is not in the public interest.

For example, if debarring a company would significantly adversely affect competition or the prices charged for milk, such a debarment would be contrary to the best interests of schools in the relevant market area. This exception is particularly relevant in areas were only a very few suppliers would exist after a debarment.

The provision provides that USDA should not debar companies if such a debarment is likely to have a significant adverse economic impact on the community in a manner that is unfair to innocent parties. For example, a supplier of products to child nutrition programs could be a major employer in some communities. Punishing innocent employees may not serve justice in circumstances where the guilty parties were already appropriately punished.

The bill requires the Secretary to look at the impact of the loss of child nutrition-related business to a particular supplier. If the Secretary determines that the loss of that business is likely to have "significant adverse impacts" in a manner "unfair to innocent parties" then USDA would not debar the company.

Another factor that USDA is to consider is whether debarment is justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment. For example, if officers had already paid significant fines or served jail sentences then debarment on top of those penalties would not be appropriate in certain circumstances. This might especially be the case for companies with a clean record of exemplary behavior for several years following a time period when penalties had been imposed.

Under current rules, USDA may consider all these factors. The bill does not reduce the Secretary's existing authority to debar or suspend companies or persons. The significant improvement made by this bill is that debarment is the presumed remedy unless other factors are found to exist. It is the Committee's intent that USDA get tough on dairies and other suppliers of products who cheat, defraud or otherwise injure child nutrition programs.

The Committee will very carefully monitor USDA activities in this regard and will take appropriate actions.

Lastly, this new section requires the Secretary of Agriculture, in conjunction with other parties, to provide training and guidance to local agencies in identifying and preventing fraud and anti-competitive activities when they procure products for child nutrition programs.

The Committee is very concerned with reports of illegally adulterated fruit juice, labeled "pure," being sold to schools for the school lunch and school breakfast programs. Incidents of illegally adulterated juice being provided to schools have occurred in Chicago, St. Louis, Toledo, Lansing, Detroit and other public school systems across the country.

The Office of Consumer Litigation of the U.S. Department of Justice and the U.S Attorney's Offices, in conjunction with the Food and Drug Administration, have successfully prosecuted six companies and 31 company executives or employees for the illegal tampering of fruit juice provided to schools and other consumers. The Justice Department convictions have resulted in more than $11 million in criminal fines and civil judgments in addition to a combined total of 164 months in prison for defendants.

Illegally adulterated fruit juices have been reported to contain beet sugar, orange by-products, preservatives not approved as safe for use in juice, ammonium salts, potassium salts, and possibly banned or hazardous chemicals.

The incidence of illegally adulterated fruit juice poses not only a potential health risk to consumers and school children, but places honest corporate citizens at a competitive disadvantage.

The Committee acknowledges that the overwhelming majority of fruit juice processors, suppliers and distributors are honest and good corporate citizens. However, as the Office of Consumer Litigation of the Justice Department has shown, the incidence of fraud and other illegal activity relating to sale of fruit juice to schools and other consumers requires greater inspection and oversight by government agencies.

The Committee strongly recommends that the Secretary aggressively use the debarment provisions in this section to pursue and remove from operation any company or individual found to have provided illegally adulterated fruit juice through the child nutrition programs.

Furthermore, the Committee instructs the Secretary to work in conjunction with the Secretaries of Justice and Health and Human Services, to prevent the defrauding of the child nutrition programs with the illegal adulteration of fruit juice.

SECTION 121. NUTRITION EDUCATION PROMOTION PROGRAM

This provision establishes a Federal nutrition education promotion program to promote healthy eating habits among the recipients of domestic food assistance programs. The provision permits the Secretary to solicit private funds for the program, while establishing criteria for avoiding any conflict of interest.

SECTION 122. INFORMATION CLEARINGHOUSE

This provision establishes an information clearinghouse, in conjunction with a nongovernmental organization, to provide information to nongovernmental groups throughout the United States that assist low-income individuals or communities regarding food assistance, self-help and other empowerment activities.

The clearinghouse databank would include information on the 50,000 affiliates of major food banks, State hunger organizations, State personnel, major nutrition education groups, universities and colleges, and other organizations.

It would provide information on successful models of anti-hunger or self-help activities to communities, or universities, or States, which want to explore various ways of reducing hunger in communities. It would assist in putting funding sources and foundations in touch with those in need.

It would facilitate communication between community groups, universities or State agencies, involved in assisting low-income communities or individuals become more self-reliant and provide examples, advice and guidance to communities, States, counties, cities, anti-hunger groups, and local organizations regarding the means of assisting individuals and communities to reduce reliance on government programs, to reduce hunger and to improve nutrition. The idea for the creation of this nutrition information clearinghouse came from World Hunger Year, a private, nonprofit organization headquartered in New York City.

Several clearinghouses have been authorized by Congress. For example, the 1990 farm bill established the National Rural Information Center Clearinghouse to aid rural companies, towns, residents and corporations. It is housed in the National Agricultural Library (NAL).

NAL also hosts other information clearinghouse centers: Alternative Farming Information Center, Aquaculture Center, Technology Transfer, Biotechnology, and the Plant Genome Data and Information Center. While the plant genome center costs $1.7 million a year to maintain with 10 full-time staff years, $110,000 is annually spent on the alternative agriculture clearinghouse.

Unlike the NAL clearinghouses, this one would be partially supported by private funds. Federal funding be gradually reduced and that the clearinghouse be privatized immediately. Federal funding would decline from $200,000 per year in 1995 to $75,000 in 1999.

The clearinghouse would operate under the general direction of USDA. USDA would have instant access to the national data base established by the private nonprofit organization administering the center and would be able to copy the entire data base as determined appropriate by USDA. The clearinghouse would be required to permit electronic access to its databank free of charge to the Secretary, States, counties, cities, anti-hunger groups, and others.

SECTION 123. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES

This provision requires the Secretary, in consultation with the Attorney General and the Secretary of Education, to develop and distribute guidances on accommodating the special dietary needs of children with disabilities in child nutrition programs. The guidance should explain what types of modifications are to be made to accommodate children with disabilities who have medically certified special dietary needs.

The Secretary is required to develop guidances for the school lunch and school breakfast programs, and any other programs that the Secretary determines are appropriate. The guidances are to be distributed to food school service authorities, institutions and organizations participating in the programs .

The provision also authorizes competitive grants to State agencies to assist schools with non-recurring costs associated with accommodating the special dietary needs of children with disabilities. The Committee intends these grants to be targeted to the school lunch and breakfast programs, since these programs provide meals to the greatest number of children.

Allowable uses of competitive grant funds include the purchase of special feeding equipment, food preparation equipment, and videos, manuals and other materials which provide information on modifying meals to accommodate special needs children. Costs associated with planning special menus and training food service staff in preparing modified meals are also allowable expenses under this provision.

The Committee wants to make clear that nothing in this Act should be construed as limiting the requirements of Section 504 of the Rehabilitation Act of 1973 with regard to these or any other food programs.

SECTION 201. SCHOOL BREAKFAST PROGRAM

This provision requires the Secretary to provide technical assistance to assist schools in complying with nutritional requirements under the school breakfast program.

The provision also makes permanent a program providing competitive grants for the start-up and expansion of school breakfast and summer food service programs. The success of the breakfast start-up program has convinced the Committee that it is an important tool in expanding participation in child nutrition programs. Extending the program and expanding it to include both start-up and expansion in the school breakfast and summer food service programs should help increase access to meals for more low-income children.

The provision establishes priorities for grants under the program, with school breakfast start-up the highest priority, followed by breakfast expansion, summer food start-up and summer expansion. The goal of the grants is to increase access to the programs for low-income children, and the Secretary should give primary consideration to the extent of unmet need among low-income children in making award decisions.

The Committee has elected not to include language calling for the Secretary of Agriculture to issue regulations consolidating the school lunch and school breakfast programs. However, the Committee wishes to make it clear that the Department and States, with input from local school districts and school food service authorities, should work to eliminate administrative procedures and forms that are unnecessarily duplicative or burdensome.

The Secretary should consult with States to learn from those which have eliminated duplicative requirements, e.g., by allowing school food service authorities to file reimbursement claims for lunch and breakfast on the same forms. The Secretary should share such information with States which have not implemented similar provisions.

Every effort should be made to encourage, at both the Federal and State levels, streamlining of administrative procedures for the two programs so that they are "seamless" from the point of view of the schools.

SECTION 202. STATE ADMINISTRATIVE EXPENSES

This provision reauthorizes the State Administrative Expenses (SAE) program and codifies operational procedures concerning the withholding of funds for serious deficiencies and the requirement for States to participate in studies.

States are currently required to meet a minimum level of funding, or Maintenance of Effort (MOE), in order to receive SAE funding. The MOE level which States must meet was set into statute in 1977, and has not been changed since. Some States have expressed concerns regarding possible inequities in current MOE requirements. The Committee instructs the Department, using existing funds, to review current MOE requirements to determine whether there might be a more equitable formula for setting MOE levels. The Department should forward its findings to the Committee by July 1, 1995.

SECTION 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE

This provision sets forth language regarding the sale of competitive foods of minimal nutritional value in both elementary and secondary schools (as those terms are applied by States or counties).

The provision requires the Secretary to develop and provide to elementary schools, through State agencies, model language to expand the time and place restrictions on the sale of competitive foods of minimal nutritional value (as defined in 7 C.F.R. Part 210, Appendix B (1993)) anywhere on elementary school grounds before the end of the last lunch period.

In providing model language to elementary schools the Secretary shall simply recommend its adoption and shall make it clear that local authorities can choose to adopt or not adopt the language.

This provision further requires the Secretary to provide to secondary schools, through State agencies, a copy of the current regulations concerning the sale of competitive foods of minimal nutritional value. The intent is to clarify current regulations while leaving the choice of when and whether to offer competitive foods squarely in the hands of State of local officials. Current regulations "prohibit the sale of foods of minimal nutritional value, as listed in Appendix B, in the food service areas during the lunch periods."

In contacting secondary schools, the State agencies shall include a cover letter which reads as follows:

> The United States Department of Agriculture has recently proposed numerous changes in regulations governing the school lunch and breakfast programs, including the proposal to implement the dietary guidelines in school meals programs.
>
> These proposals do not affect the current competitive food regulations found in 7 C.F.R. Part 210. In accordance with a recent law, enclosed is a copy of these regulations concerning the sale of competitive foods of minimal nutritional value in schools. These regulations make it clear that schools may ban the sale of such competitive foods, or not ban such foods, as they determine appropriate, except that schools shall prohibit the sale of foods of minimal nutritional value, as listed in Appendix B, in the food service areas during the lunch periods. This information is intended to help clarify any questions

which may have arisen or might arise regarding the sale of foods in competition with the school lunch and breakfast programs.

SECTION 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM

This provision reauthorizes the special supplemental nutrition program for women, infants, and children (WIC) through fiscal year 1998, and reauthorizes the WIC Farmers' Market Nutrition Program at $10.5 million in fiscal year 1995, $12.5 million in 1996, $15 million in 1997, and $18 million in 1998. The provision changes the name of the WIC program to the "Special Supplemental Nutrition Program for Women, Infants, and Children."

WIC, which celebrates its 20th birthday this year, is one of the most effective programs funded by the Federal government. WIC provides nutritious food, nutrition education and referral to health care to low-income women and their children up to age 5. Despite its proven effectiveness, the program is able to serve only two-thirds of those eligible due to limited funding.

The results of WIC are indeed remarkable. WIC helps prevent low birthweight, reduces anemia and increases childhood immunizations. But WIC's benefits reach far beyond infancy. Children who participate in WIC appear to be better prepared for school. Four- and 5-year-olds whose mothers participated in WIC during pregnancy were found to have higher vocabulary test scores. In addition, children who participated in WIC after their first birthday scored higher on memory tests.

The fiscal benefits of WIC are also remarkable. Investment in WIC produces immediate savings in Federal health care spending. Every dollar spent on a medicaid-eligible pregnant woman under WIC saves between $1.92 and $4.21 in Medicaid costs for newborns and mothers.

A 1992 General Accounting Office report ("Early Intervention: Federal Investments Like WIC Can Produce Savings") showed that WIC reduces the incidence of very low birth weight by 44%. As noted in the Purpose and Need section of this report, GAO calculated that the government investment in pregnant women through WIC would pay for itself within a year—and would avert $1 billion in medical and other expenses in the next 18 years.

The provision also: includes alcoholism and drug abuse as direct nutritional risk factors; requires the coordination of Medicaid and WIC under Medicaid managed care providers; gives priority consideration for migrant populations; allows States to implement WIC and Medicaid eligibility guidelines concurrently; allows funds recovered as a result of vendor violations to be spent in the year recovered; allows the administration to report on infant formula waivers issued by the Secretary as needed rather than every six months; ensures that States will not incur interest liability on WIC rebate funds; allows the Secretary to authorize a State agency to spend-back up to 3% of program funds if there has been a significant reduction in rebates; eliminates a duplicative report on migrants; and establishes an initiative for better coordination between WIC and Migrant and Community Health Centers.

Linking low-income women and children with preventive health care is a central mission of WIC. The Committee expects that the

Department's policies will promote increased cooperation and coordination between the WIC program and other public health and welfare agencies, as well as private health care providers, in order to improve the rates of childhood immunization.

The provision makes pregnant women who meet income guidelines presumptively eligible for WIC benefits. Almost all such women are found to be at nutritional risk and qualify for benefits. However, during the time it takes to assess nutritional risk, important program benefits are lost. The Committee would like to emphasize that the intent of this provision is to get WIC benefits to pregnant women as quickly as possible, without loosening current program requirements regarding nutritional risk assessment. If a pregnant woman is later found not to be at nutritional risk, she will be removed from the program.

The provision improves breastfeeding promotion and support in WIC by setting aside funding based on a formula of $21 per pregnant and breastfeeding woman, adjusted for inflation. States are allowed up to two years to adjust breastfeeding promotion expenditures to comply with this new formula. In order to evaluate WIC breastfeeding promotion efforts, the provision requires the Department to develop standards for the collection of breastfeeding data. The Committee expects that the Department will consult with States in developing those standards.

The Committee also requests that the Department examine its regulations concerning the certification of breastfeeding women. A one-year certification, instead of the current six months, would save administrative time and put the mother on the same certification schedule as her infant. However, any lessening of certification requirements should not reduce the number of nutrition education contacts offered to breastfeeding women.

The provision also establishes a grant program to fund special projects. Up to the first $10 million of WIC administrative funds carried over in a year could be used for infrastructure improvements, especially information management systems; special State projects; and special projects on breastfeeding promotion and support.

The breastfeeding projects are intended to help determine the most effective means of promoting and supporting breastfeeding among WIC participants and the appropriate level of funding for such activities. It is the intent of the Committee that decisions regarding special State projects be made in consultation with State and local agencies. Potential State projects might include ones designed to help meet the expansion needs of States, such as Oklahoma, which have been rapidly increasing the number of WIC clinics to serve more eligible participants.

The WIC Farmers' Market Nutrition Program (FMNP) provides coupons to WIC participants that can be redeemed for fresh fruits and vegetables at farmers' markets. This program has increased the intake of fruits and vegetables among WIC participants. The experience of States shows that participants continue to shop at farmers' markets even after they are no longer on WIC.

Fifteen new States were approved to enter the FMNP in 1994. As a result, 26 States will operate the program this summer, more than doubling the number of States in just one year. The amendments to the program support both the growth of existing programs in participating States and the participation of new States in the program.

Regarding the Farmers' Market Nutrition Program, the provision: revises the current administrative funding formula; allows up to 1% of total program funds to be used for market development to expand access to WIC participants; requires the Secretary to notify States of FMNP funding levels by February 15 of each year; increases minimum State grants to $75,000; and allows the Secretary to negotiate matching funds with Indian Nations. In the needs demonstration portion of negotiations with Indian Nations, the Committee encourages the Department, to the maximum extent possible, to avoid requiring burdensome paperwork of Indian Nations.

The Committee instructs that, in the event that a State cannot expend its full allocation due to a natural disaster, the Secretary shall not penalize that State in determining the next year's allocation.

The provision also simplifies data collection requirements in the Farmers' Market Nutrition Program in response to concerns that the amount of data collection required was out of proportion to the maximum $20 benefit to recipients. The amendment requires data to be provided by States to the Department "if available." However, the Committee recognizes the importance of maintaining data on the effectiveness of programs under its jurisdiction, and urges the Department, together with the National Association of Farmers' Market Nutrition Programs, to establish a more informal method of data collection.

SECTION 205. NUTRITION EDUCATION AND TRAINING PROGRAM

This provision makes permanent the Nutrition Education and Training program and establishes a 2-year funding cycle; outlines allowable uses for program funds; expands the program's focus to include education of parents and caregivers; adds child care and summer food service providers as eligible recipients of NET resources; allows more flexibility in the use of State matching grants; and reduces record-keeping requirements.

The Committee encourages the Department, with any funds made available for national nutrition education, to provide information to parents on the link between nutrition and health. The Committee also encourages the Department to make use of the Food and Nutrition Information Center of the USDA National Agriculture Library as the information center for Nutrition Education and Training program materials. The Committee hopes that this will facilitate the sharing of nutrition education curricula and other materials developed by States.

SECTION 301. EFFECTIVE DATES

This provision establishes effective dates for the provisions of the Act.

CBO COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee has included the cost estimate provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 29, 1994.

Hon. PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1614, the Better Nutrition and Health for Children Act of 1994, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on June 22, 1994.

The bill would affect direct spending and receipts and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1614.

2. Bill title: Better Nutrition and Health for Children Act of 1994.

3. Bill status: As ordered reported by the Committee on Agriculture, Nutrition, and Forestry on June 22, 1994.

4. Bill purpose: To extend authorizations for expiring child nutrition programs, and to make amendments to other child nutrition programs.

5. Estimated cost to the Federal Government:

FEDERAL GOVERNMENT COSTS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Direct spending					
Reauthorization of expiring programs assumed to continue in CBO baseline					
Estimated budget authority	337	362	388	416	
Estimated outlays	287	358	384	412	62
Cost above CBO baseline					
Estimated budget authority	22	30	36	41	46
Estimated outlays	20	30	36	41	41
Total direct spending					
Estimated budget authority	359	392	424	457	46
Estimated outlays	307	388	420	453	103
Revenues					
Gifts to nutrition education program	[1]	[1]	[1]	[1]	[1]
Amounts subject to appropriations					
Estimated authorization of appropriations	3,337	3,431	3,522	3,599	1

FEDERAL GOVERNMENT COSTS—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Estimated outlays	3,035	3,421	3,514	3,593	325

[1] CBO is unable to estimate. Any gifts received as receipts would be spent in the same or subsequent years, resulting in no change in the deficit over a several-year period.

Note.—Details may not add to totals because of rounding.

The costs of this bill fall primarily within budget function 600.

Basis of estimate

S. 1614 would extend through 1998 the authorizations for several child nutrition programs, including the Supplemental Nutrition Program for Women, Infants and Children (WIC), the Summer Food Service Program for Children, the Commodity Distribution program, and State Administrative Expenses. Several smaller programs would be given permanent authorizations. The bill would also authorize several pilot projects and make a number of changes to the National School Lunch program, the School Breakfast program, the Child and Adult Care Food program, and other permanently authorized child nutrition programs.

The CBO baseline assumed the continuation of two of the programs reauthorized under S. 1614, the Summer Food Service program for Children and State Administrative Expenses. This baseline assumption is consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, which states that "no (direct spending) program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears." As shown in the table above, the baseline costs for these two programs total $337 million in budget authority in 1995, increasing to $416 million by 1998. Other direct spending changes increase budget authority by an additional $22 million in 1995, $30 million in 1996, $36 million in 1997, $41 million in 1998, and $46 million in 1999. A detailed table of costs begins on page 3, followed by a discussion of sections with costs totalling $1 million or more over the five-year projection period.

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF S. 1614

[By fiscal year, in millions of dollars]

Title/section	1995	1996	1997	1998	1999	Five-year total
Title 1.—Amendments to the National School Lunch Act						
101 Amend date for delivery of commodities						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
102 Allow secretary to purchase commodities for States						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
103 Require secretary to provide technical assistance						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
104 Amend whole milk requirements						
Estimated budget authority	1	1	1	1	1	5
Estimated outlays	1	1	1	1	1	5

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF S. 1614—Continued

[By fiscal year, in millions of dollars]

Title/section	1995	1996	1997	1998	1999	Five-year total
105 Allow schools to share eligibility information with certain agencies:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
106 Make certain head start children categorically eligible for the Child Care Food Program, Sept. 1995:						
Estimated budget authority	(1)	1	1	1	1	4
Estimated outlays	(1)	1	1	1	1	4
107 Amend use of the nutrition education and training:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
108 Expand options for schools serving all free meals[2]:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
109 Amend definition of school:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
110 Amend timely submission of claims:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
111 Provide information about organic foods:						
Estimated budget authority	(1)	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)	(1)
112 Authorize up to $600,000 annually for food and nutrition grants:						
Estimated budget authority	1	1	1	1	0	2
Estimated outlays	1	1	1	1	(1)	2
113 Extend authorization for summer food service program for children, 1995–1998[3]:						
Estimated budget authority	245	264	284	306	......	1,099
Estimated budget authority	208	261	281	303	46	1,099
114 Extend authorization for commodity distribution program, 1995–1998:						
Estimated budget authority	0	0	0	0	......	0
Estimated outlays	0	0	0	0	0	0
115 Make conforming amendment:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
116 Amend child and adult care food program including extension of statewide demonstration projects, 1995–1998:						
Estimated budget authority	4	5	6	6	......	21
Estimated outlays	4	5	6	6	(1)	21
117 Allocate $3 million of state administrative expenses for Homeless Children Nutrition Program and authorize $400,000 annually for demonstration program:						
Estimated budget authority	(1)	(1)	(1)	(1)	......	2
Estimated outlays	(1)	(1)	(1)	(1)	(1)	2
118 Authorize three sets of pilots projects:						
Estimated budget authority	20	21	20	......	......	61
Estimated outlays	17	21	20	3	......	61
119 Permanently authorize $2 million for Food Service Management Institute (FSMI):						
Estimated budget authority	2	2	2	2	2	10
Estimated outlays	2	2	2	2	2	10
Authorize $1 million for training and an additional $2 million for FSMI, subject to appropriations:						
Estimated budget authority	3	3	3	3	......	12
Estimated outlays	3	3	3	3	(1)	12
120 Authorize OTA study of coordinated review system:						
Estimated budget authority	(1)	0	0	0	0	(1)

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF S. 1614—Continued

[By fiscal year, in millions of dollars]

Title/section	1995	1996	1997	1998	1999	Five-year total
Estimated outlays	(1)	0	0	0	0	(1)
121 Amend nonprocurement debarment procedures:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
122 Establish nutrition Education Promotion Program:						
Estimated revenues	(4)	(4)	(4)	(4)	(4)	(4)
Estimated budget authority	(4)	(4)	(4)	(4)	(4)	(4)
Estimated outlays	(4)	(4)	(4)	(4)	(4)	(4)
123 Provide grants for clearinghouse:						
Estimated budget authority	(1)	(1)	(1)	(1)		(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)	(1)
124 Authorize $1 million for grants for special diets:						
Estimated budget authority	1	1	1	1	1	5
Estimated outlays	1	1	1	1	1	5
Title II—Amendments to Child Nutrition Act of 1966:						
201 Authorize grants for Start-Up and expansion of Breakfast and Summer Food Programs:						
Estimated budget authority	5	5	6	6	7	29
Estimated outlays	5	5	6	6	7	29
Paticipation increases associated with start-up and expansion funds:						
Estimated budget authority	3	10	15	20	25	73
Estimated outlays	3	10	15	20	25	73
202 Extend authorization for State administrative expenses:[3]						
Estimated budget authority	92	98	104	110		404
Estimated outlays	79	97	103	109	16	404
203 Extend WIC authorization at such sums for 1995–1998, and authorize specified levels for farmers' market projects:						
Estimated budget authority	3,308	3,400	3,491	3,588		13,787
Estimated outlays	3,010	3,391	3,483	3,579	323	13,786
204 Permanently authorize $10 million annually for nutrition education and training:						
Estimated budget authority	10	10	10	10	10	50
Estimated outlays	10	10	10	10	10	50
Bill total:						
Direct spending:						
Estimated budget authority	359	392	424	457	46	1,677
Estimated outlays	307	388	420	453	103	1,670
Revenues	(4)	(4)	(4)	(4)	(4)	(4)
Authorization of appropriations:						
Estimated budget authority	3,337	3,431	3,522	3,599	1	13,888
Estimated outlays	3,035	3,421	3,514	3,593	325	13,887
Memorandum:						
Direct spending above baseline:						
Estimated budget authority	22	30	36	41	46	174
Estimated outlays	20	30	36	41	41	167

[1] Less than $500,000.

[2] This provision could result in small increases, with an estimated net change of zero.

[3] Expiring programs with outlays greater than $50 million are assumed to continue in baseline, as required by sec. 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

[4] CBO is unable to estimate. Any gifts received would be spent in the same or subsequent years, resulting in no change in the deficit over a several-year period.

ASource: Congressional Budget Office.
ANote.—Details may not add to totals due to rounding.

Section 104

Section 104 of the bill would remove the current mandate that schools participating in the school lunch and breakfast programs

offer whole fluid milk. CBO expects that schools would purchase less whole milk without the mandate, resulting in a larger surplus of milk fat to be purchased under the dairy support program. We estimate that costs of the dairy program would increase by roughly $1 million annually. This section also would require the Secretary of Agriculture to purchase enough additional cheese to offset the increase in surplus milk fat caused by the change in the school meal programs. This purchase of additional cheese would not affect spending for the child nutrition program, because the cheese would be purchased in the place of other commodities. The cheese purchase also would not significantly affect outlays for the daily program, beca'ıse schools are like to reduce market purchases of cheese in response to increased federal donations, resulting in little overall change in the milk fat surplus.

Section 106

This section would make children eligible for free meals under the Child and Adult Care Food Program (CACFP), provided they were determined eligible for Head Start on the basis of income or receipt of public assistance. Children who qualify for Head Start on a basis other than income and have to meet the CACFP income guidelines, as under current law. The proposal would have little effect on CACFP spending, because most children who meet the Head Start income guidelines also meet the CACFP guidelines for free meals. In some cases, however, the Head Start guidelines are applied less strictly than the CACFP guidelines; specifically, families whose incomes increase over time or who have incomplete documentation of family income may meet Head Start income eligibility criteria but be ineligible for a free meal subsidy. Less than half of one percent of Head Start children are estimated to fall into one of these two situations. Extending free meals to these few children is estimated to increase child nutrition entitlement spending by $1 million annually, beginning in fiscal year 1996.

Section 112

Section 112 would authorize grants to be awarded to private nonprofit organizations to operate food and nutrition projects that are integrated with elementary school curricula. The section authorizes annual grants of not less than $100,000 and not more than $200,000 to each of three private organizations in 1995 through 1998, subject to the availability of appropriations. CBO estimates an authorization level of $600,000 annually.

Section 113

S. 1614 would extend the authorization of the Summer Food Service Program for Children at such sums as are necessary for 1995 through 1998. CBO baseline estimates for this program are $245 million in budget authority in 1995, increasing to $306 million in 1998. These estimates assume that 122 million meals and snacks will be served in 1995, based on historical growth trends. Reimbursements per meal to operators of summer food programs are estimated to average $1.82, based on inflation projections and the historical mix of type of meal served. This section would also make a few changes to the program authorization. One of these changes, allowing program operators to provide meal service during periods of unanticipated school closure, is estimated to increase costs slightly by a five-year total of about $500,000.

Section 116

This section would extend through 1998 the authorization for two statewide demonstration projects concerning the participation of proprietary child care centers in the Child and Adult Care Food program. Costs for continuing the demonstrations in Iowa and Kentucky are estimated to be $4 million in 1995, rising to $6 million by 1998, based on the current cost of the programs and the rate of growth in the past three years. The continuation of the demonstration is subject to the availability of appropriations. Other amendments in section 116 include a conforming amendment to the Head Start changes made in Section 106, and other small changes that have no effect on spending levels.

Section 117

Section 117 would allocate $3 million of the funding from State Administrative Expenses to a Homeless Child Nutrition program. This allocation does not change overall spending under State Administrative Expenses.

This section would also appropriate $400,000 for each of fiscal years 1995 through 1998 to conduct at least one demonstration project for providing food and nutrition services to homeless pregnant women and homeless mothers or guardians of infants. Outlays were estimated assuming historic spending patters of child nutrition programs.

Section 118

Section 118 would authorize three different sets of pilot projects, all subject to the availability of appropriations. Section 118(a) would authorize the Secretary to establish pilot projects for fortified fluid milk in at least 25 school districts. No additional funds are authorized for the projects, but the bill does require a report on the projects by the Secretary. CBO estimates costs of $1 million in 1996 for the study. Section 118(b) would authorize up to $10 million annually for each of fiscal years 1995 through 1997 for a pilot project to assist schools in serving additional choices of fruits, vegetables, legumes, cereals, and grain-based products. Section 118(c) would authorize up to $10 million annually for each of fiscal years 1995 through 1997 for a pilot project to help schools serve more low-fat dairy products and lean meat and poultry products. Outlays for these two pilot projects are based on stated authorization levels and the historical spending patterns of child nutrition programs.

Section 119

Section 119 provides $2 million for the Food Service Management Institute (FSMI) in fiscal year 1995 and each subsequent year. This section also authorizes $1 million for training and technical assistance, and an additional $2 million for the FSMI, in each of fiscal years 1995 through 1998, to the extent that appropriations are provided in advance. Outlays for both the mandatory and the discretionary authorizations were estimated on the basis of stated authorization levels and the historical spending patterns of child nutrition programs.

Section 122

Section 122 would affect both direct spending and revenues. The Secretary of Agriculture would be authorized to solicit and accept gifts to be used to fund a nutrition education promotion program to promote healthy eating habits among recipients of federal nutrition programs. Any gifts would be considered revenues to the federal government, and any outlays resulting from the gifts would be considered direct spending. The magnitude of any gift giving, and thus any resulting outlays, cannot be estimated. No gifts have yet been received under a similarly structured breast-feeding promotion program that was enacted two years ago and is still in the process of being implemented. Because the spending is limited by the amount received, the provision would be deficit-neutral over a number of years. It is possible, however, that receipts in one year would lead to expenditures in subsequent years, thereby increasing of decreasing the deficit in any one year.

Section 123

This section would provide funding for an information clearinghouse to assist nongovernmental groups in meeting the food assistance and self-help needs of low-income individuals and communities. The bill appropriates $200,000 in each of fiscal years 1995 and 1996, $150,000 for each of fiscal years 1997 and 1998, and $75,000 for fiscal year 1999, for a five-year total of $775,000.

Section 124

This section would authorize grants of $1 million annually through the year 2000 to assist schools in accommodating the medical and special dietary needs of children with disabilities. Outlays assume the full appropriation of authorized amounts.

Section 201

S. 1614 would permanently extend the authorization for competitive grants to state agencies to assist schools in starting up breakfast programs. The program would be expanded to allow grants to go to schools expanding breakfast programs, as well as to institutions starting up or expanding summer food programs. Authorized amounts would be continued at $5 million in 1995 and 1996, increasing to $6 million in 1997 and 1998, and to $7 million in 1999 and subsequent years. The CBO estimate for this provision includes the costs of the additional meals served by schools that start up or expand breakfast or summer food programs as a result of the grants. CBO assumes that if the full $5 million were for start-up grants for breakfast programs, approximately 1,000 schools would receive grants of $5,000 per school, and that half of these schools would have come onto the program regardless of the grants, with the remaining half of the schools (or 500 schools) coming onto the program because of the start-up grants. The number of new schools would increase to 600 and 700, respectively, when total grants increase to $6 million and $7 million. Adding 500 to 700 new schools each year is estimated to increase meal costs by $3 million in 1995, by $10 million in 1996, by $15 million in 1997, by $20 million per year in 1998, and by $25 million in 1999. The costs of participation increases were estimated to be lower if all grants were used to expand existing breakfast programs, and higher if grants were invested in summer food programs. These effects were estimated as largely offsetting one another.

Section 202

Section 202 would extend the authorization for State Administrative Expenses. Funding for any given year is calculated as 1.5 percent of the costs expended two years earlier for certain meal programs. Funding levels are estimated to be $92 million in 1995, rising to $110 million by 1998, based on CBO baseline cost projections for child nutrition programs. Of these funds, $3 million would be set aside for the Homeless Children Nutrition program authorized under Section 117.

Section 203

S. 1614 would authorize appropriations of such sums as may be necessary for fiscal years 1995 through 1998 for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). CBO estimated the authorizations by increasing the fiscal year 1994 appropriation to reflect projected annual inflation. Estimated outlays reflect spending patterns of the current program. In addition, the bill would authorize appropriations of $10.5 million in fiscal year 1995, $12.5 million in 1996, $15 million in 1997 and $18 million in 1998 for the WIC Farmers Market program. Estimated outlays reflect spending patterns of the current program. All outlay estimates assume appropriation of the amounts authorized at the beginning of each fiscal year.

Section 204

Section 204 would reauthorize the Nutrition Education and Training program at a level of $10 million annually, roughly the same level as was appropriated in 1994. Outlays were estimated following historical spending patterns of child nutrition programs.

6. Pay-as-you-go considerations: The pay-as-you-go effects of the bill are as follows.

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998
Outlays	20	30	36	41
Receipts	(1)	(1)	(1)	(1)

[1] CBO is unable to estimate. Any gifts received as receipts would be spent in the same or subsequent years, resulting in no change to the deficit over a several-year period.

7. Estimated cost to State and local government: The bill extends authorizations for state administrative expenses to cover costs for administering most of the child nutrition programs. Funds for the summer food program and the WIC program also include administrative costs for state and local governments and sponsors.

8. Estimate comparison: None.

9. Previous CBO estimate: CBO has prepared estimates for H.R. 8, as ordered reported by the House Committee on Education and Labor (estimate of May 27, 1994) and H.R. 8, as ordered reported

by the House Committee on Agriculture (estimate of June 23, 1994). Many provisions in those two versions of H.R. 8 are similar to the provisions in S. 1614.

10. Estimate prepared by: Julia Isaacs, Cory Oltman, and Ian McCormick.

11. Estimate approved by: Paul Van de Water, for C.G. Nuckols, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out S. 1614.

We estimate that several proposed regulatory actions would be required as well as several final rulemakings. These would all take place over a 3 to 18 month period following enactment. Also, we believe that additional Federal Register notices dealing with the various pilot projects found in the bill could be necessary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1614 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

NATIONAL SCHOOL LUNCH ACT

AN ACT To provide assistance to the States in the establishment, maintenance, operation, and expansion of school lunch programs, and for other purposes.

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

APPROPRIATIONS AUTHORIZED

SEC. 3. For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as the "Secretary") to carry out the provisions of this Act, other than sections 13 and 17 Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.

APPORTIONMENTS TO STATES

SEC. 4. (a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act.

(b)(1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency; by

(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 11(a) of this Act) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.

[FOOD SERVICE EQUIPMENT ASSISTANCE]

[SEC. 5. Repealed]

DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], other than section 3 thereof [(42 U.S.C. 1772)], less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for the Secretary'sadministrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by the Secretary pursuant to section 4 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4 and 7 of the Child Nutrition Act of 1966 [(42 U.S.C. 1773 and 1776)]; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which

per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 18 of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966 [(42 U.S.C. 1771)],

shall be available to the Secretary during such year for direct expenditure by the Secretary for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. The provisions of law contained in the proviso of the Act of June 28, 1937 [; 15 U.S.C. 713c], facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 [; 7 U.S.C. 612c] shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.

[(b) Not later than June 1 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than July 1 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary di-

rectly administers the school lunch program, shall promptly and equitably disburse, such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.]

(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.

[(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted [after March 30, 1973] for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

[(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.]

[(e)] *(c)*(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2) To the maximum extent feasible, each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

[(f)**]** *(d)* Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 [(42 U.S.C. 1773)].

PAYMENTS TO STATES

SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980.

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this Act. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.

(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by schools in the State in meals served under the school lunch program under this Act.

STATE DISBURSEMENT TO SCHOOLS

SEC. 8. Funds paid to any State during any fiscal year pursuant to section shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary. Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school lunch program. The terms "child" and "children" as used in this Act shall be deemed to include individuals regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with mental or physical handicaps: Provided, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this Act during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a)(1)*(A)* Lunches served by schools participating in the school lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research[; except that such minimum nutritional requirements], *except that—*

(i) the minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students[.]*; and*

(ii) the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school lunches.

(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2)*(A)* Lunches served by schools participating in the school lunch program under this Act shall offer students [fluid whole milk and fluid unflavored lowfat milk] *fluid milk, except that a State educational agency may require schools in the State to offer any type or types of milk to students.*

(B)(i) The Secretary shall purchase each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.

(3) The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in

the school lunch program under this Act without endangering the nutritional integrity of the lunches served by such schools.

(4) Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

(b)(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

(i) the official poverty line (as defined by the Office of Management and Budget); by

(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

(B) Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

(II) a family that is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

[(iii) School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this Act and the Child Nutrition Act of 1966.]

(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

(II) a person directly connected with the administration or enforcement of a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

(iv) Information provided by a school under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged for a reduced price lunch shall not exceed 40 cents.

(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published list of names, or by other means.

(5) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is **[**a member of**]**—

(i) *a member of* a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); **[**or**]**

(ii) *a member of* an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)))**[**.**]***; or*

(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a

family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(B) Proof of receipt of [food stamps or aid to families with dependent children] *food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),* shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).

(c) School lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935, [(7 U.S.C. 612c)] may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949 [(7 U.S.C. 1431)] and under section 709 of the Food and Agriculture Act of 1965 [(7 U.S.C. 1446a–1)] as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount, for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act) which participate in the school lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

(d)(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).

(2) No member of a household may be provided a free or reduced price lunch under this Act unless—

(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 [(7 U.S.C. 2011 et seq.)] has been provided to the appropriate local school food authority; or

(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

(f) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency shall, particularly with regard to the responsibilities of the agency under subsection (a)(3), use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10. (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

SPECIAL ASSISTANCE

SEC. 11. (a)(1)*(A)* Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year. **[**In the case of**]** *(B) Except as provided in subparagraph (C), (D), or (E), in the case of* any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced priced lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches. **[**In the case of any school that (A) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (B) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period.**]**

(C)(i) Except as provided in subparagraph (D), in the case of any school that—

> *(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and*
>
> *(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period; spe-*

cial assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school year period.

(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school year period described in subparagraph (C), the State may grant, at the end of the 3-school year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

(ii) A school described in clause (i) may reapply to the State at the end of the 2-school year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school year period. The school may reapply to the State at the end of the 5-school year period, and at the end of each 5-school year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school year period.

The school shall require submission of applications for free and reduced prices lunches, or for free and reduced price lunches and breakfasts in the first school year of each 5-school year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

(E)(i) In the case of any school that—

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period; total Federal cash reimbursements and total commodity assistance

shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

(ii) A school described in clause (i) may reapply to the State at the end of the 4-school year period described in clause (i), and at the end of each 4-school year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).

(2) The special assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special assistance factor for reduced price lunches shall be 40 cents less than the special assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 4 of this Act).

(ii) the special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966 [(42 U.S.C. 1773(b))]).

(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966 [(42 U.S.C. 1779)], the special assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in providing free and reduced price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e)(1) The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(f) Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced price, not exceeding the price specified in section 9(b)(3) of this Act, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced priced lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) States, State educational agencies, and schools participating in the school lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in the Secretary's agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school lunch program under this Act insofar as they may be applicable and such other provisions as in the Secretary's opinion are reasonably necessary or appropriate to effectuate the purpose of this Act.

* * * * * * *

(d) For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands,

Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

(4) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.

(5) "School" means (A) any public or nonprofit private school of high school grade or **[**under**]** *under and*, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor)**[**, and**]** .**[** (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico**]**. For purposes **[**of clauses (A) and (B)**]** of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

(6) "School year" means the annual period from July 1 through June 30.

(7) "Commodity only schools" means schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

(8) "Secretary" means the Secretary of Agriculture.

(e) The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966 [(42 U.S.C. 1773)], to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) No provision of this Act or of the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs.

(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 [(42 U.S.C. 3001 et seq.)].

(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims submitted to State agencies by eligible schools, institutions, and service institutions for service of meals, supplements, and milk under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) only if—

> *(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which reimbursements are claimed; and*
>
> *(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.*

(2) The Secretary may waive the requirements of paragraph (1).

(k)(1) The Secretary shall make available, at the request of State educational agencies and schools participating in the school lunch

program, information about means for schools to obtain organically produced agricultural products (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)), such as meats, poultry products, fruits, products made from grains, dairy products, and vegetables that are organically produced.

(2) Paragraph (1) shall apply beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with such Act (7 U.S.C. 6501 et seq.).

(l)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

(C) create community service learning opportunities or educational programs;

(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

(F) be able to provide model curricula, examples, advice, and guidance to school, community groups, States, and local organizations regarding means of carrying out similar projects.

(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this section in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist states, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) "program" means the summer food service program for children authorized by this section; (B) "service institutions" means public or private nonprofit school food authorities, local, municipal, or county governments public or private nonprofit higher education institutions participating in the National Youth Sports Program, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)]; (C) "areas in which poor economic conditions exist" means areas in which at least 50 percent of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public or nonprofit private school program established for the mentally or physically handicapped; and (E) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist;

(ii) conduct a regularly scheduled food service primarily for homeless children; or

(iii) qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

[(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

[(B) service institutions that prepare meals at their own facilities or operate only one site;

[(C) service institutions that use local school food facilities for the preparation of meals;

[(D) other service institutions that have demonstrated ability for successful program operation;

[(E) service institutions that plan to integrate the program with Federal, State, or local employment programs; and

[(F) private nonprofit organizations eligible under paragraph (7).]

(A) School food authorities.

(B) Units of local, municipal, or county government that have demonstrated successful program performance in a prior year.

(C) Other units of local, municipal, or county government, and private nonprofit organizations eligible under paragraph (7).

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)].

(6) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7)(A) Except as provided in subparagraph (C), private nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.

(B) As used in this paragraph, the term "private nonprofit organizations" means those organizations that—

(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or

(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);

(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university) or a school participating in the school lunch program under this Act;

(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 *of any year that such authority or unit of local* government will operate a program under this section in such year;

(iv) exercise full control and authority over the operation of the program at all sites under their sponsorship;

(v) provide ongoing year-around activities for children or families;

(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

(vii) meet applicable State and local health, safety, and sanitation standards.

[(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.]

(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area.

(b)(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: Provided, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: Provided further, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals

during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.

(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c)(1) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar *or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to an unanticipated school closure.*

(2)(A) Notwithstanding any other provision of this Act, any higher education institution that receives reimbursements under the program for meals and meal supplements served to low-income children under the National Youth Sports Program is eligible to receive reimbursements for not more than 2 meals or 1 meal and 1 meal supplement per day for not more than 30 days for each child participating in a National Youth Sports Program operated by such institution during the months other than May through September. The program under this paragraph shall be administered within the State by the same State agency that administers the program during the months of May through September.

(B) Children participating in National Youth Sports Programs operated by higher education institutions, and such higher education institutions, shall be eligible to participate in the program under this paragraph without application.

(C) Higher education institutions shall be reimbursed for meals and meal supplements served under this paragraph—

(i) in the case of lunches and suppers, at the same rates as the payment rates established for free lunches under section 11; and

(ii) in the case of breakfasts or meal supplements, at the same rates as the severe need payment rates established for free breakfasts under section 4 of the Child Nutrition Act of 1966.

(D)(i) Meals for which a higher education institution is reimbursed under this paragraph shall fulfill the minimum nutritional requirements and meal patterns prescribed by the Secretary—

(I) for meals served under the school lunch program under this Act, in the case of reimbursement for lunches or suppers; and

(II) for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966, in the case of reimbursement for breakfasts.

(ii) The Secretary may modify the minimum nutritional requirements and meal patterns prescribed by the Secretary for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966 for application to meal supplements for which a higher education institution is reimbursed under this paragraph.

(E) The Secretary shall issue regulations governing the implementation, operation, and monitoring of programs receiving assistance under this paragraph that, to the maximum extent practicable, are comparable to those established for higher education institutions participating in the National Youth Sports Program and receiving reimbursements under the program for the months of May through September.

(d) Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: Provided, That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: Provided, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications and handbooks by February 1 of each fiscal year In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 [(7 U.S.C. 1431)], or purchased under section 32 of the Act of August 24, 193? [(7 U.S.C. 612c)] or section 709 of the Food and Agriculture Act of 1965 [(7 U.S.C. 1446a 091)]. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

* * * * * * *

(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: Provided, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized

under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(l)(1) Service institutions (other than private nonprofit organizations eligible under subsection (a)(7)) may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal year; and

(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies [and their program record] *that have been seriously deficient in their participation in the program,* for the purpose of making such information available to the States.

(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and *safeguards to prevent collusive* bidding activities between service institutions and food service management companies.

(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods of assessing need, and its plans and schedule for informing service institutions of the availability of the program; *and* (3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used[; .[(4) the State's plans and schedule for providing technical assistance and training eligible service institutions; (5) the State's schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.]

(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to de*fraud the United States, or does or omits to do any act with intent* to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine or not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons to any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p) During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of private nonprofit organizations for the program established under this section.

(q)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

[(2) Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum]—

(A) the criminal provisions and penalties established by subsection (o); and

(B) the procedures for termination of participation in the program as established by regulations.

[(3)] *(2)* The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.

(3) A State shall not be required to provide a hearing to a private nonprofit organization concerning a State action taken on the basis of a Federal review finding with respect to a program carried out under this section. If a State does not provide a hearing to the organization concerning the action, the Secretary, on request, shall provide a hearing to the organization concerning the action.

(4) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out [paragraphs (1) and (3)] *paragraphs (1) and (2)* this subsection not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

(5) For the purposes of this subsection, the term "private nonprofit organization" has the meaning given such term in subsection (a)(7)(B).

(r) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [1994] *1998*, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

COMMODITY DISTRIBUTION PROGRAM

SEC. 14. (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, [1994] *1998*, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], and title III of the Older Americans Act of 1965 [(42 U.S.C. 3021 et seq.)]; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b)*(1)* Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(2) The Secretary shall improve the overall nutritional quality of entitlement (within the meaning of section 18) commodities provided to schools under the school lunch program to assist the schools in improving the nutritional content of meals served under the program.

(3) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of commodities provided to schools under the school lunch program; or

(B) otherwise provide nutritional content information regarding the commodities provided to schools under the school lunch program.

(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments *in lieu of such donations* under section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1)) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) In providing assistance under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966.

Within eighteen months after the date of the enactment of this subsection [enacted on November 10, 1977], the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(f) Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under [section 6(e)] *section 6(c)* of this Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk.

(g)(1) As used in this subsection, the term "eligible school district" has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983. The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the difference between the value of bonus commodity assistance received by such school district under this Act for the school year ending June 30, 1983, and the value of bonus commodities received by such school district under this Act for the school year ending June 30, 1982. For the purposes of this subparagraph—

(i) the term "bonus commodities" means commodities provided in addition to commodities provided pursuant to [section 6(e)] *section 6(c)*; and

(ii) the term "bonus commodity assistance" means assistance, in the form of bonus commodities, cash, or commodity letters of credit, provided in addition to assistance provided pursuant to section 6(e).

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall, during the 45-day period beginning on October 1, 1990, complete action on any claim submitted under this subparagraph.

(B) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph, to be available without fiscal year limitation.

ELECTION TO RECEIVE CASH PAYMENTS

SEC. 16. (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by [section 6(e)] *section 6(c)* of this Act.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

CHILD AND ADULT CARE FOOD PROGRAM

SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term "institution" means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with handicap; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act [(42 U.S.C. 1397 et seq.)] (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term "institution" shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with handicaps). The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives

funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services and

(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], for a period of time specified by the Secretary; and

(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f)of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966 [(42 U.S.C. 1779)].

(c)(1) For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 [(42 U.S.C. 1773(b)] (as adjusted pursuant to section 11(a) of this Act)

(3) For purposes of this section, the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

(d)(1) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (A) has tax exempt status under the Internal Revenue Code of 1986 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (B) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at [2-year intervals] *3-year intervals.*

(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).

(e)(1) Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch, or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), two meals and two supplements or three meals and one supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(3)(A) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced price meals under section 9 of this Act. The reimbursement factor in effect as of the date of the enactment of this sentence [August 13, 1981] shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent.

(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available. The maximum allowable levels for administrative expense payments, as in effect as of the date of the enactment of this subparagraph [August 13, 1981], shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.

(C)(*i*) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii) Funds for administrative expenses may be used by a family or group day care home sponsoring organization to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.

(4) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

(2) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(3) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

(h)(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under [section 6(e)] *section 6(c)* for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(j) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

(k)(1) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act [(42 U.S.C. 1397 et seq.)], of the availability of the program, the requirements for program participation, 1A17 0928 and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.

(3) The Secretary and the States shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children.

(4) The Secretary shall encourage States to provide information and training concerning child health and development to family or group day care home sponsoring organizations.

(l) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(o)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants. 1A17 0935

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act [(42 U.S.C. 1396 et seq.)] and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consulation with the Assistant Secretary for Aging shall establish, within 6 months of enactment [enacted on October 1, 1988], separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 [(42 U.S.C. 3030e et seq.)], for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(p)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

(A) at least 25 percent of the children served by such organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

(B) as a result of the participation of the organization in the project—

(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

(2) Under each such project, the Secretary shall examine—

(A) the budgetary impact of the change in eligibility being tested;

(B) the extent to which, as a result of such change, additional low-income children can be reached; and

(C) which outreach methods are most effective.

(3) The Secretary shall choose to conduct demonstration projects under this subsection—

(A) 1 State that—

(i) has a history of participation of for-profit organizations in the child care food program;

(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

(iii) has other funding mechanisms that support parental choice for child care;

(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program; and

(B) 1 State in which—

(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

(iii) at least ⅓ of the licensed child care centers and preschools operate as for-profit facilities;

(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act.

(4) Such project shall—

(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

(B) terminate on September 30, **[**1992**]** *1998*.

(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, **[**1994**]** *1998*, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.

(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supple-

mental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) The State agency shall—

(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

(ii) information on the maximum income limits, according to family size, applicable to the program; and

(iii) information on where parents may apply to participate in the program.

SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) GENERAL AUTHORITY.—

(1) GRANTS TO STATES.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term "eligible elementary and secondary schools" means schools that—

(A) operate school lunch programs under this Act;

(B) sponsor afterschool care programs; and

(C) are participating in the child care food program under section 17 on May 15, 1989.

(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to children—

(1) who are not more than 12 years of age; or

(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

(c) REIMBURSEMENT.—For the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).

(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.

SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

(b) AGREEMENTS TO PARTICIPATE IN PROJECTS.—

(1) IN GENERAL.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section, including requirements that—

(A) each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children under the age of 6 at each site; and

(B) each food service site operated by any of the organizations shall meet applicable State and local health, safety, and sanitation standards.

(c) PROJECT REQUIREMENTS.—

(1) IN GENERAL.—A project conducted under this section shall—

(A) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program established under section 17 for free meals and supplements; and

(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of the project.

(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without submitting an application.

(d) FUNDING PRIORITIES.—From the amount described in subsection (f), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the "current fiscal year") in the following order of priority, to the maximum extent practicable:

(1) The Secretary shall first provide such funding to entities and organizations, each of which—

(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

(B) is eligible to receive funding under this section to carry out the project for the current fiscal year; to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

(2) From the portion of the amounts that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

(f) FUNDING.—

(1) IN GENERAL.—From funds made available under section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)), the Secretary shall expend $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out this section.

(2) EXCEPTION.—The Secretary may expend less than the amount described in paragraph (1) if there is an insufficient number of suitable applicants to carry out projects under this section. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

(g) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term "emergency shelter" has the meaning provided in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).

PILOT PROJECTS

SEC. 18. (a) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 [(42 U.S.C. 1774)].

(b)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987, and ending September 30, 1994 The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

[(c)(1) The Secretary shall conduct demonstration projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

[(2)(A) The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects under this subsection.

[(B) The Secretary shall establish eligibility requirements for State, city, local, or county governments, other public entities, or private nonprofit organizations that desire to participate in the projects under this subsection. Such requirements shall include the following:

> [(i) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.
>
> [(ii) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

[(3)(A) Projects under this subsection shall use the same meal patterns and shall receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements. The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.

[(B) Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

[(4) For purposes of this subsection, the term "emergency shelter" has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act.

[(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection from amounts appropriated for purposes of carrying out this Act not less than $50,000 in the fiscal year 1990 not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994 in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966. Any amounts expended under the preceding sentence shall be used solely to provide grants on an annual basis to State, city, local, or county governments, other public entities, or 1A180914 private nonprofit organizations for the conduct of projects under this subsection.

[(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

[(6) At least 1 project under this subsection shall commence operations not later than September 30, 1990, and all such projects shall cease to operate not later than September 30, 1994.

[(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public entities, and shall advise each State of the procedures for applying to participate in the project.]

(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

(A) homeless pregnant women; and

(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

(2) To be eligible to obtain funds under this subsection, a homeless shelter, transitional housing organization, or other entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(B) receive the approval of the Secretary for the proposal;

(C) be located in an urban area that has—

(i) a significant population of boarder babies;

(ii) a very high rate of mortality for children under 1 year of age; or

(iii) a significant population of homeless pregnant women and homeless women with infants; as determined by the Secretary; and

(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

(3) Food and nutrition services funded under this subsection—

(A) may include—

(i) meals, supplements, and other food;

(ii) nutrition education;

(iii) nutrition assessments;

(iv) referrals to—

(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(III) other public or private programs and services;

(v) activities related to the services described in any of clauses (i) through (iv); and

(vi) administrative activities related to the services described in any of clauses (i) through (v); and

(B) may not include the construction, purchase, or rental of real property.

(4)(A) A participating entity shall—

(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

(6) The Secretary shall periodically report to the appropriate committees of Congress on projects carried out under this subsection.

(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

(8) As used in this subsection:

(A) The term "boarder baby" means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100 09505; 42 U.S.C. 670 note).

(B) The term "nutrition education" has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).

(d)(1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

(i) daily counting by category of meals provided by school lunch programs under this Act; and

(ii) annual applications for eligibility to receive free meals or reduced price meals.

(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

(ii) shall be updated not later than September 30 of each year.

(3)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have universal free school lunch programs shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (B) to the daily total student meal count.

(B) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

(ii) shall be updated not later than September 30 of each year.

(C) For the purposes of this paragraph, a universal free school lunch program is a program under which the school operating the program elects to serve all children in that school free lunches under the school lunch program during any period of 3 successive years and pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period.

(4) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

(5) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

(e)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the

fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

(A) all whole milk in final package form for beverage use shall contain not less than—

(i) 3.25 percent milk fat; and

(ii) 8.7 percent milk solids not fat;

(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

(5) Not later than 2 years after the establishment of pilot projects under this subsection, the Secretary shall report to the appropriate committees of Congress on—

(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

(B) the impact of offering the milk on milk consumption;

(C) the views of the school food service authorities on the pilot projects; and

(D) any increases or reductions in costs attributed to the pilot projects.

(6) The Secretary shall—

(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

(B) on request, make available to State agencies and the public—

(i) the information obtained under subparagraph (A); and

(ii) information about where to obtain milk described in paragraph (3).

(7)(A) The pilot projects established under this subsection shall terminate on the last day of the third year after the establishment of the pilot projects.

(B) The Secretary shall advise representatives of all districts participating in the pilot projects that the districts may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.

(f)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established

under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (7), organically produced agricultural commodities and products) (collectively referred to in this subsection as "qualified products").

(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

(3) The Secretary shall use the funds provided under this subsection to provide to the schools referred to in paragraph (1)—

(A) per meal reimbursements, in addition to reimbursements otherwise due the schools;

(B) incentive awards to schools that agree to increase the choices of the schools of qualified products during the school year; or

(C) qualified products acquired by the Secretary.

(4) The Secretary may provide a priority for receiving funds under this subsection to—

(A) schools that are located in low-income areas (as defined by the Secretary); and

(B) schools that rarely offer 3 or more choices of qualified products per meal.

(5) On request, the Secretary shall provide information to the appropriate committees of Congress on the impact of the pilot project on participating schools, including—

(A) the extent to which school children increased consumption of qualified products;

(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

(C) the desirability of—

(i) requiring that each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

(ii) requiring that each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

(iii) mandating that the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

(D) the views of school food service authorities on the pilot project; and

(E) any increase or reduction in costs to the schools in offering the additional qualified products.

(6) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $10,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

(7) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products

beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products and lean meat and poultry products (including, subject to paragraph (7), organically produced agricultural commodities and products) (collectively referred to in this subsection as "qualified products").

(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

(3) The Secretary shall use the funds provided under this subsection to provide to the schools referred to in paragraph (1)—

(A) per meal reimbursements, in addition to reimbursements otherwise due the schools;

(B) incentive awards to schools that agree to increase the choices of the schools of qualified products during the school year; or

(C) qualified products acquired by the Secretary.

(4) The Secretary may provide a priority for receiving funds under this subsection to—

(A) schools that are located in low-income areas (as defined by the Secretary); and

(B) schools that rarely offer 2 or more choices of qualified products per meal.

(5) On request, the Secretary shall provide information to the appropriate committees of Congress on the impact of the pilot project on participating schools, including—

(A) the extent to which school children increased consumption of qualified products;

(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

(C) the desirability of—

(i) requiring that each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

(ii) requiring that each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

(iii) mandating that the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

(D) the views of the school food service authorities on the pilot project; and

(E) any increase or reduction in costs to the schools in offering the additional qualified products.

(6) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $10,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

(7) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

SEC. 19. REDUCTION OF PAPERWORK.

(a) IN GENERAL.—In carrying out functions under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], the Secretary shall, to the maximum extent possible, reduce the paperwork required of State and local educational agencies, schools, and other agencies participating in nutrition programs assisted under such Acts in connection with such participation.

(b) CONSULTATION; PUBLIC COMMENT.—In carrying out the requirements of subsections (a), the Secretary shall—

(1) consult with State and local administrators of programs assisted under this Act or the Child Nutrition Act of 1966;

(2) convene at least 1 meeting of the administrators described in paragraph (1) not later than the expiration of the 10-month period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989; and

(3) obtain suggestions from members of the public with respect to reduction of paperwork.

(c) REPORT.—Before the expiration of the 1-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall report to the Congress concerning the extent to which a reduction has occurred in the amount of paperwork described in subsection (a). Such report shall be developed in consultation with the administrators described in subsection (b)(1).

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 20. (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

(b) The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section.

SEC. 21. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

(a) General Authority.—The Secretary—

(1) [from] *subject to the availability of, and from,* amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

(A) food service programs carried out with assistance under this Act;

(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

(C) as appropriate, other federally assisted feeding programs; and

(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippito establish and maintain a food service management institute.

(b) Minimum Requirements.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

(1) menu planning;

(2) implementation of regulations and appropriate guidelines; and

(3) compliance with program requirements and accountability for program operations.

(c) Duties of Food Service Management Institute.—

(1) In general.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

(A) food service programs assisted under this Act;

(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

(C) as appropriate, other federally assisted feeding programs.

(2) Required activities.—Activities carried out under paragraph (1) shall include—

(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

(B) providing training and technical assistance with respect to—

(i) efficient use of physical resources;
(ii) financial management;
(iii) efficient use of computers;
(iv) procurement;
(v) sanitation;
(vi) safety;
(vii) food handling;
(viii) meal planning and related nutrition activities; [and]
(ix) culinary skills; and
[(ix)] *(x)* other appropriate activities;

(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

(D) developing training materials for use in the programs and workshops described in subparagraph (C); [and]

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966[.]*; and*

(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.

(d) COORDINATION.—The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

[(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1); and

[(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2).]

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998 for purposes of carrying out subsection (a)(1).

(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

(A) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $2,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) $2,000,000 for each of fiscal years 1995 through 1998. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code.

(b) FUNCTIONS OF SYSTEM.—

(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

(A) require that local food service authorities comply with the provisions of this Act; and

(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $3,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.

SEC. 23. INFORMATION ON INCOME ELIGIBILITY.

(a) INFORMATION TO BE PROVIDED.—In the case of each program established under this Act and the Child Nutrition Act of 1966, the Secretary shall provide to each appropriate State agency—

(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State,

State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

(b) TIME FOR PROVISION OF INFORMATION.—The Secretary shall provide the information required by subsection (a) before the expiration of the 60-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989 and shall as necessary provide revisions of such information.

(c) FORM SIMPLIFICATION.—Not later than July 1, 1990, the Secretary shall—

(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966; and

(2) simplify the format and instructions for such forms so that the forms are easily understandable by the individuals who must complete them.".

SEC. 24. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

(a) NUTRITION GUIDANCE PUBLICATION.—

(1) DEVELOPMENT.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled "Nutrition Guidance for Child Nutrition Programs" (hereafter in this section referred to as the "publication"). The Secretary shall develop the publication as required by the preceding sentence before the expiration of the 2-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989.

(2) TIME FOR DISTRIBUTION.—Before the expiration of the 6-month period beginning on the date that the development of the publication is completed, the Secretary shall distribute the publication to school food service authorities and institutions and organizations participating in covered programs.

(b) REVISION OF MENU PLANNING GUIDES.—The Secretary shall, as necessary, revise the menu planning guides for each covered program to include recommendations for the implementation of nutrition guidance described in the publication.

(c) APPLICATION OF NUTRITION GUIDANCE TO MEAL PROGRAMS.—In carrying out any covered program, school food authorities and other organizations and institutions participating in such program shall apply the nutrition guidance described in the publication when preparing meals and meal supplements served under such program.

(d) IMPLEMENTATION.—In carrying out covered programs, the Secretary shall ensure that meals and meal supplements served under such programs are consistent with the nutrition guidance described in the publication.

(e) REVISION OF PUBLICATION.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication as warranted by scientific evidence.

(f) Covered Programs.—For the purposes of this section, the term "covered program" includes—

(1) the school lunch program under this Act;

(2) the summer food service program for children under section 13;

(3) the child care food program under section 17; and

(4) the school breakfast program under section 4 of the Child Nutrition Act of 1966.

SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

(a) Purposes.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

(2) providing training, technical advice, and guidance in identifying and preventing the activities.

(b) Definitions.—As used in this section:

(1) Child nutrition program.—The term "child nutrition program" means—

(A) the school lunch program established under this Act;

(B) the summer food service program for children established under section 13;

(C) the child and adult care food program established under section 17;

(D) the homeless children nutrition program established under section 17B;

(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

(2) Contractor.—The term "contractor" means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

(3) Local agency.—The term "local agency" means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

(4) Nonprocurement debarment.—The term "nonprocurement debarment" means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

(5) Person.—The term "person" means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

(c) Assistance To Identify and Prevent Fraud and Anticompetitive Activities.—The Secretary shall—

(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

(d) Nonprocurement Debarment.—

(1) In general.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

(2) Causes for debarment.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) other obstruction of justice.

(3) Exception.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment or for other good cause (as determined by the Secretary), the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

(4) Mandatory child nutrition program debarment periods.—

(A) In general.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 1 year.

(B) Previous debarment.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and

the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 3 years.

(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

(i) reverse a debarment decision;

(ii) reduce the period or scope of a debarment;

(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

(5) INFORMATION.—On request, the Secretary shall present to the appropriate congressional committees information regarding the decisions required by this subsection.

(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate the nonprocurement debarment proceedings described in subsection (d)(1) against the contractor who has committed a cause for debarment (as determined under subsection (d)(2)), unless the action—

(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

(3) is unfair to a person that is not involved in the improper activity that would otherwise result in the debarment;

(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment; or

(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor

against whom a nonprocurement debarment proceeding has been initiated shall—

(1) exhaust all administrative procedures prescribed by the Secretary; and

(2) receive notice of the final determination of the Secretary.

(g) Information Relating to Prevention and Control of Anticompetitive Activities.—On request, the Secretary shall present to the appropriate congressional committees information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.

SEC. 26. NUTRITION EDUCATION PROMOTION PROGRAM.

(a) In General.—The Secretary, using amounts received under subsection (d), shall establish a nutrition education promotion program to promote healthy eating habits among participants in the domestic food assistance programs of the Department.

(b) Conduct of Program.—In carrying out the program described in subsection (a), the Secretary may—

(1) develop or assist other persons in developing appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting nutrition education;

(2) distribute or assist other persons in distributing such materials to appropriate public or private individuals and entities; and

(3) provide funds to public or private individuals and entities, including teachers, child care providers, physicians, health professional organizations, food service personnel, school food authorities, and community-based organizations for the purpose of assisting the individuals and entities in conducting nutrition education promotion programs to promote healthy eating habits among the participants in the domestic food assistance programs of the Department.

(c) Cooperative Agreements and Grants.—The Secretary may enter into cooperative agreements with, and make grants to, Federal agencies, State, and local governments, and other entities, to carry out the program described in subsection (a).

(d) Gifts, Bequests, and Devises.—

(1) In general.—Notwithstanding any other provision of law, the Secretary may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sale of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement on order of the Secretary.

(2) Criteria for acceptance.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that would ensure that the acceptance of any gifts, bequests, or devises would not—

(A) reflect unfavorably on the ability of the Secretary to carry out the responsibilities of the Secretary in a fair and objective manner; or

(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.

SEC. 27. INFORMATION CLEARINGHOUSE.

(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

(4) be sponsored by an organization, or be an organization, that—

(A) has helped combat hunger for at least 10 years;

(B) is committed to reinvesting in the United States; and

(C) is knowledgeable regarding Federal nutrition programs;

(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for each of fiscal years

1997 and 1998, and $75,000 for fiscal year 1999. The Secretary shall be entitled to receive the funds and shall accept the funds.

SEC. 28. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

(a) DEFINITIONS.—As used in this section:

(1) CHILDREN WITH DISABILITIES.—The term "children with disabilities" means individuals, each of which is—

(A) a participant in a covered program; and

(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(2) COVERED PROGRAM.—The term "covered program" means—

(A) the school lunch program established under this Act;

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means a school food service authority, or institution or organization, that participates in a covered program.

(b) GUIDANCE.—

(1) DEVELOPMENT.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidances for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(2) TIMING.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 90 days after the date of enactment of this section.

(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidance to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

(c) GRANTS.—

(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible

entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

(3) ALLOCATION BY SECRETARY.—

(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 2000 to carry out this subsection.

CHILD NUTRITION ACT OF 1966

AN ACT To strengthen and expand food service programs for children.

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966".

DECLARATION OF PURPOSE

SEC. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3. (a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as the Secretary may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the National School Lunch Act [(42 U.S.C. 1751 et seq.)], and (B) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the National School Lunch Act.

(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act.

(3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as the Secretary administered the special milk pro-

gram provided for by Public Law 89 09642, as amended, [(80 Stat. 885)] during the fiscal year ending June 30, 1969.

(5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act shall receive the special milk program upon its request.

(6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.

(7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8) Such adjustment shall be computed to the nearest one-fourth cent.

(9) Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

(10) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(b) Commodity only schools shall not be eligible to participate in the special milk program under this section. For the purposes of the preceding sentence, the term "commodity only schools" means schools that do not participate in the school lunch program under the National School Lunch Act [(42 U.S.C. 1751 et seq.)], but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. (a) There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States and the Department of Defense through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act and to carry out the provisions of subsection (g) appropriations and expenditures for this Act shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b) The Secretary shall make breakfast assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in an amount equal to the product obtained by multiplying—

(I) the number of breakfasts served during such fiscal year to children in schools in such States which participate in the school breakfast program under agreements with such State educational agency; by

(II) the national average breakfast payment for free breakfasts, for reduced price breakfasts, or for breakfasts served to children not eligible for free or reduced price meals, as appropriate, as prescribed in clause (B) of this paragraph.

(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act [(42 U.S.C. 1759a(a))]. The national average payment for each reduced price breakfast shall be one-half of the national average payment for each free breakfast, adjusted to the nearest one-fourth cent, except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced price meals shall be 8.25 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act)

(C) No school which receives breakfast assistant payments under this section may charge a price of more than 30 cents for a reduced price breakfast.

(D) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.

(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced price meal at schools that are in severe need.

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

(ii) 45 cents, which shall be adjusted on an annual basis each July 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent twelvemonth period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

(C) The maximum payment for each such reduced price breakfast shall be thirty cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph.

(3) The Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act. These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

[SEVERE NEED ASSISTANCE]

(d)(1) Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—

(A) those schools in which the service of breakfasts is required pursuant to State law; and

(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.

The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.

(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)(1)(*A*) Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act [(42 U.S.C. 1758)].

(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.

EXPANSION OF PROGRAM

(f)(1) As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy

(2)(A) Each State educational agency shall—

(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

(ii) select each year, for additional informational efforts concerning the program, schools in the State—

(I) in which a substantial portion of school enrollment consists of children from low-income families; and

(II) that do not participate in the school breakfast program.

(B) Not later than October 1, 1993, the Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.

STARTUP COSTS

[(g)(1) The Secretary shall make payments, totalling not less than $3,000,000 in the fiscal year 1990 and $5,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, on a competitive basis to State educational agencies in a substantial number of States for distribution to eligible schools to assist such schools with nonrecurring expenses incurred in initiating a school breakfast program under this section. Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b).

[(2)(A) In making payments under this subsection in any fiscal year, the Secretary shall provide a preference to State educational agencies that—

[(i) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of—

[(I) the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs;

[(II) a State law that requires the expansion of such programs during such year; or

[(III) significant public or private resources that have been assembled to carry out the expansion of such programs during such year; or

[(ii) either—

[(I) do not have a breakfast program available to a large number of low-income children in the State; or

[(II) serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfasts is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act.

[(B) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by such agency within a reasonable period.

[(C) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

[(3) Each State agency, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools that demonstrate the greatest need for a breakfast program.

[(4) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of payments received under this subsection.

[(5) As used in this subsection, the term "eligible school" means a school—

[(A) attended by children a significant percentage of whom are members of low-income families; and

[(B) that agrees to operate the breakfast program established with such assistance for a period of not less than 3 years.

[(6) Not later than December 31, 1993, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.]

STARTUP COSTS

(g)(1) The Secretary shall make payments, totalling not less than $5,000,000 for each of fiscal years 1991 through 1996, $6,000,000 for each of fiscal years 1997 and 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year, on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

(i) initiating a school breakfast program under this section; or

(ii) expanding a school breakfast program; and

(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

(i) initiating a summer food service program for children; or

(ii) expanding a summer food service program for children.

(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand the programs.

(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

(A) have in effect a State law that requires the expansion of the programs during the year;

(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

(C) do not have a breakfast program available to a large number of low-income children in the State; or

(D) serve an unmet need among low-income children, as determined by the Secretary.

(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the national school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a breakfast program or a summer food service program for children, respectively.

(9) Expenditures of funds from State and local sources for the maintenance of the breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

(10) As used in this subsection:

(A) The term "eligible school" means a school—

(i) attended by children a significant percentage of whom are members of low-income families; and

(ii) that agrees to operate the breakfast program established with the assistance provided under this section for a period of not less than 3 years.

(B) The term "service institutions" means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

(C) The term "summer food service program for children" means a program authorized by section 13 of such Act (42 U.S.C. 1761).

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 5. (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools or institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

PAYMENTS TO STATES

SEC. 6. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act [(42 U.S.C. 1753, 1759a, and 1766)] and sections 3 and 4 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with **[**paragraphs (2), (3), and (4) of this subsection**]** *paragraphs (2) through (5).* There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act [(42 U.S.C. 1751 et seq.)] or under this Act, except for the programs authorized

under section 13 or 17 of the National School Lunch Act [(42 U.S.C. 1761 or 1766)] or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act [(42 U.S.C. 1753 and 1759a)] and sections 3 and 4 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1981, or $100,000, whichever is larger.

(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act [(42 U.S.C. 1766)] in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5). The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act [(42 U.S.C. 1751 et seq.)] and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

[(B)(i) In the fiscal year 1991 and each succeeding fiscal year, any amounts appropriated that are not obligated or expended during such fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary. From any amounts returned to the Secretary under the preceding sentence.

[(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than $4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than $1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States.

[(II) After making the allocations under subclause (I), the Secretary shall allocate, 1A7 099 for purposes of administrative costs, any remaining amounts among States that demonstrate a need for such amounts.

[(ii) In any fiscal year in which amounts returned to the Secretary under the first sentence of clause (i) are insufficient to provide the complete allocation described in clause (i)(I), all of such amounts shall be allocated for the purpose described in clause (i)(I).]

(B)(i) Notwithstanding any other provision of this subsection, of the amounts that are provided under paragraph (1), before making the allocations required under paragraphs (2), (3), and (4), the Secretary shall allocate $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out section 17B of the National School Lunch Act.

(ii) After making the allocations required under clause (i) and paragraphs (2), (3), and (4), the Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.

(6) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act [(42 U.S.C. 1761(k)(1))] shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

* * * * * * *

(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the National School Lunch Act.

(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued to carry out a program pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a period of time specified by the Secretary, the Secretary may withhold from the State all or part of the funds allocated to the State under this section and sections 13(k)(1) and 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) and 1766).

(B) On a subsequent determination by the Secretary that the administration of the program for which the Secretary withheld funds under subparagraph (A), or compliance with the regulation issued to carry out the program, is no longer seriously deficient and is carried out in an acceptable manner, the Secretary may allocate all or part of the funds withheld under subparagraph (A) to the State.

(b) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(c) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

(d) Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.

(e) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

(f) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(g) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the National School Lunch Act [(42 U.S.C. 1751 et seq.)] (except section 13 of that Act [(42 U.S.C. 1761)]), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.

(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in each study or survey of a program authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) that is conducted by the Secretary.

[(h)]*(i)* For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [1994] *1998*, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

UTILIZATION OF FOODS

SEC. 8. Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058[; 7 U.S.C. 1431]), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774[; 7 U.S.C. 612c]), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212[; 7 U.S.C. 1446a–1]), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

NONPROFIT PROGRAMS

SEC. 9. The food and milk service programs in schools and nonprofit institutions receiving assistance under this Act shall be conducted on a nonprofit basis.

REGULATIONS

SEC. 10. *(a)* The Secretary shall prescribe such regulations as the Secretary may deem necessary to carry out this Act and the National School Lunch Act [(42 U.S.C. 1751 et seq.)], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the National School Lunch Act. *(b)* **[**Such regulations**]** *(1) The regulations* shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. *(c)* In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

(2) The Secretary shall develop and provide to elementary schools, through each State agency, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

(3) The Secretary shall provide to secondary schools, through State agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.

PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 and 4 of this Act, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act.

PRESCHOOL PROGRAMS

SEC. 12. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

CENTRALIZATION OF ADMINISTRATION

SEC. 13. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the National School Lunch Act [(42 U.S.C. 1751 et seq.)].

APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE

SEC. 14. There are hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for the Secretary's administrative expense under this Act.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when ap-

plied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

(4) "Secretary" means the Secretary of Agriculture.

(5) "School year" means the annual period from July 1 through June 30.

(6) Except as used in section 17 of this Act, the terms "child" and "children" as used in this Act, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with mental or physical handicaps

ACCOUNTS AND RECORDS

SEC. 16. (a) States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary

(b) With regard to any claim arising under this Act or under the National School Lunch Act [(42 U.S.C. 1751 et seq.)], the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either such Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

[SPECIAL SUPPLEMENTAL FOOD PROGRAM] *SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN*

SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons.

(b) As used in this section—

(1) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(2) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(3) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(4) "Costs for nutrition services and administration" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(5) "Infants" means persons under one year of age.

(6) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health and Human Services, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(7) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

(8) "Nutritional risk" means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, (D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse, or **[**(D)**]** *(E)* conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, **[**alcoholism and drug addiction, homelessness, and**]** *homelessness* and migrancy.

(9) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program.

(10) "Postpartum women" means women up to six months after termination of pregnancy.

(11) "Pregnant women" means women determined to have one or more fetuses in utero.

(12) "Secretary" means the Secretary of Agriculture.

(13) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health and Human Services.

(14) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and pospartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(15) "Homeless individual" means—

(A) an individual who lacks a fixed and regular nighttime residence; or

(B) an individual whose primary nighttime residence is—

(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

(iii) a temporary accommodation in the residence of another individual; or

(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(16) "Drug abuse education" means—

(A) the provision of information concerning the dangers of drug abuse;

(B) the referral of participants who are suspected drug abusers to drug abuse clinics, treatment programs, counselors, or other drug abuse professionals; and

(C) the provision of materials developed by the Secretary under subsection (n).

(17) "Competitive bidding" means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

(18) "Rebate" means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

(19) "Discount" means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home de-

livery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

(20) "Net price" means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.

(c)(1) The Secretary may carry out a [special supplemental food program] *special supplemental nutrition program* to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to—

(A) the food stamp program;

(B) any program under which foods are distributed to needy families in lieu of food stamps; and

(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

(2) Subject to amounts appropriated to carry out this section under subsection (g)—

(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 [(7 U.S.C. 612c note)] shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.

(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the National School Lunch Act for free and reduced price meals;

(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

(II) is a member of a family that receives assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act; or

(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

(B) For the purpose of determining income eligibility under this section, any State agency may choose to exclude from income any basic allowance for quarters received by military service personnel residing off military installations.

(3)(A) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(B) Under the procedures, a pregnant woman who meets the income eligibility standards shall be considered presumptively eligible to participate in the program and shall be certified for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of the woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.

(4) The Secretary shall report biennially to Congress and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k) on—

(A) the income and nutritional risk characteristics of participants in the program;

(B) participation in the program by members of families of migrant farmworkers; and

(C) such other matters relating to participation in the program as the Secretary considers appropriate.

(e)(1) The State agency shall ensure that nutrition education and drug abuse education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education and drug abuse education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program.

(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to

persons providing nutrition education under this section. Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they have received.

(3)*(4)* The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health and Human Services for comment, issue such materials for use in the program under this section.

(3)*(5)* The State agency shall—

(A) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program;

(B) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the "medicaid program"); and

(C) provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program.

(4)*(6)* The State agency shall ensure that each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.

(5) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes.

(f)(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

(C) The plan shall include—

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

(ii) a description of the financial management system of the State agency;

(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, local programs for breastfeeding promotion prenatal care, well-child care, family planning, drug abuse education, alcohol and drug abuse counseling and treatment, child abuse counseling, and with the aid to families with dependent children, food stamp, maternal and child health care, and medicaid programs, *including medicaid programs that use managed care providers under section 1903(m) or 1915(b) of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)*;

(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants, homeless individuals, and Indians;

(v) a plan to expend funds to carry out the program during the relevant fiscal year;

(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

(vii) a plan to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;

(viii) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

(ix) if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to, and to meet the special nutrition education needs of, such individuals, which may include—

(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;

(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and

(III) the development of nutrition education materials appropriate for the special needs of such individuals;

(x) a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;

(xi) a plan to provide nutrition education and promote breastfeeding;

(xii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and

(xiii) such other information as the Secretary may require.

(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction *and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time.*

(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

(7)(A) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction.

(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible individuals (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, organizations and agencies serving homeless individuals and shelters for victims of domestic violence and religious and community organizations in low-income areas).

(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible individuals who are most in need of the benefits, including pregnant women in the early months of pregnancy.

(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.

(9)(A) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.

(10) If an individual certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that individual's certification of eligibility shall remain valid for the period for which the individual was originally certified.

(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's funds for nutrition services and administration as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals.

(14) The State agency shall (A) provide nutrition education, breastfeeding promotion, and drug abuse education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.

(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.

(17) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities.

[(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program.

[(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year.]

(18) Not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(19) Each local agency participating in the program under this section shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

(20) The State agency shall adopt policies that—

(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.

(21) Each State agency shall conduct monitoring reviews of each local agency at least biennially.

(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.

(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.

(g)(1) There are authorized to be appropriated to carry out this section $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years [1991, 1992, 1993, and 1994] *1991 through 1998*. As authorized by section 3 of the National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.

(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

(B) In any fiscal year—

(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).

(4) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.

(5) Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $5,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, preparing the report required under subsection (d)(4), providing technical assistance to improve State agency administrative systems, [and administration of pilot projects] *administration of pilot projects*, including projects designed to meet the special needs of migrants, Indians, and rural populations, *and carrying out technical assistance and research evaluation projects of the programs established under this section. The Secretary may allow the interagency transfer of funds made available to carry out this paragraph to Federal and other agencies to carry out projects and initiatives that are consistent with program goals*.

(6) Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section.

(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs incurred by State and local agencies for nutrition services and administration for such year.

(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued for the fiscal year 1987, as adjusted.

(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the fiscal year 1987 to reflect the percentage change between—

(I) the value of the index for State and local government purchases, using the implicit price deflator, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1986; and

(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

(C) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

(2)(A) For each of the fiscal years [1990, 1991, 1992, 1993 and 1994] *1990 through 1998*, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula—

(i) shall be designed to take into account—

(I) the varying needs of each State;

(II) the number of individuals participating in each State; and

(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

(ii) shall provide for each State agency—

(I) an estimate of the number of participants for the fiscal year involved; and

(II) a per participant grant for nutrition services and administration for such year;

(iii) shall provide for a minimum grant amount for State agencies; and

(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

(3)(A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

(I) 1/6 of the amounts expended by the State for costs of nutrition services and administration; and

(II) an amount equal to a proportionate share of **[**$8,000,000**]** *the national minimum breastfeeding promotion expenditures, as described in subparagraph (E),* with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

(E) The national minimum breastfeeding promotion expenditure shall be—

(i) with respect to fiscal year 1995, the amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women based on the average number of pregnant women and breastfeeding women during the last 3 months for which the Secretary has final data; and

(ii) with respect to each of fiscal years 1996 through 1998, the amount described in clause (i) adjusted for inflation in accordance with paragraph (1)(B)(ii).

(4) The Secretary shall—

(A) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

(B) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

(C) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration; **[**and**]**

(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding**[**.**]**; *and*

(E)(i) not later than 1 year after the effective date of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program; and

(ii) effective beginning on the date of the establishment of the uniform requirements, require each State agency to report the

data for inclusion in the report to Congress described in subsection (d)(4).

(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

(i) to cover allowable expenditures in such fiscal year; and

(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

(C) For the purposes of this paragraph, the term "acceptable measures" includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

(A) local agency staffing needs;

(B) density of population;

(C) number of individuals served; and

(D) availability of administrative support from other sources.

(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

(A) a new local agency;

(B) a new cost containment measure; or

(C) a significant change in an existing cost containment measure.

(8)(A) No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.

(B)(i) Except as provided in subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

(I) a competitive bidding system; or

(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

(C) In the case of any State that has a contract in effect on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on such date, expires. In the case of any State that has more than 1 such contract in effect on the date of the enactment of such Act, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on the date of the enactment of such Act, expires.

(D)(i) The Secretary shall waive the requirement of subparagraph (B) in the case of any State that demonstrates to the Secretary that—

(I) compliance with subparagraph (B) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

(iii) The Secretary shall provide information [at 6-month intervals] *on a timely basis* to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

(E)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

(ii) The Secretary shall also provide technical assistance, on request, to State agencies that desire to consider a cost containment system that covers more than 1 State agency.

(iii) The Secretary may waive the requirement of subparagraph (B) in the case of any Indian State agency that has not more than 1,000 participants.

(F) No State may enter into a cost containment contract (in this subparagraph referred to as the "original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

(G)(i) [The] *During each of fiscal years 1995 through 1996, the* Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. [The Secretary shall make the offer to State agencies once every 12 months.] *If an offer made under the preceding sentence results in the implementation of contracts by 2 or more State agencies, the Secretary shall also make offers in accordance with the preceding sentence during each of fiscal years 1997 and 1998.* Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

(vii) The Secretary shall also develop procedures for—

(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. *In conducting an offer under this clause, the Secretary shall attempt to develop and use procurement procedures that are likely to be broadly acceptable among State agencies.* The procedures established by the Secretary shall ensure that—

(ix) If an offer made under clause (i) results in the implementation of contracts by 2 or more State agencies, the Secretary shall promptly offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal or infant juice manufacturers, or both, and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. If the offer of the Secretary to solicit bids regarding cost containment contracts for infant cereal or infant juice, or both, results in the implementation of contracts by 2 or more State agencies, the Secretary shall renew the offer at appropriate intervals.

(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

(II) the bid solicitation and selection process is free of any real or apparent conflict of interest.

(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

(I) To reduce the costs of any supplemental foods, the Secretary—

(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

(I) the anticipated savings are expected to be significant;

(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

(III) the procedures would be consistent with the purposes of the program; and

(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.

(L) A State shall not incur an interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used to carry out the program.

(9) For purposes of this subsection, the term "cost containment measure" means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.

(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use, for the purposes specified in subparagraph (B), the lesser of $10,000,000 or the amount of unspent funds for nutrition services and administration from the previous fiscal year.

(B) Funds under subparagraph (A) shall be used for—

(i) the development of infrastructure for the program under this section, including management information systems;

(ii) special State projects of regional or national significance directed toward improving the services of the program under this section; and

(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.

(i)(1) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the amounts made available for food benefits under subsection (h)(1)(C) on the basis of a formula determined by the Secretary.

(2) Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation.

(3)(A) Notwithstanding paragraph (2) and subject to subparagraphs (B) and (C)—

(i) not more than 1 percent *(except as provided in subparagraph (H))* of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; and

(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.

(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.

(D)For State agencies implementing cost containment measures as defined in subsection (h)(9) not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and not more than 3 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.

(E) Notwithstanding any other provision in this paragraph and paragraph (2) a State agency may, subject to the approval of the Secretary under subparagraph (F), expend not more than 3 percent of the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991 for expenses incurred under this section for supplemental foods during the fiscal year 1990.

(F) Each State agency which intends to use the authority provided in subparagraph (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

(G) No State can use the authority provided under subparagraph (E) to increase the caseload level above the highest level to date in fiscal year 1990.

(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in rebates provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.

(4) For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries.

(5) If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being

so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians.

(6) Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.

[(j) By October 1 of every other year the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.**]**

(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the "Secretaries") shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers than are served on the date of enactment of the Better Nutrition and Health for Children Act of 1994.

(2) The initiative shall also include—

(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

(3) The initiative may include—

(A) outreach and technical assistance for State and local agencies and the health centers referred to in subparagraphs (A) and (B) of paragraph (2);

(B) demonstration projects in selected States or local areas; and

(C) such other activities as the Secretaries consider appropriate.

(4) As used in this subsection:

(A) The term "community health center" has the meaning provided in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

(B) The term "migrant health center" has the meaning provided in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).

(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of 24 members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 [(7 U.S.C. 612c note)]; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the [special supplemental food program] *special supplemental nutrition program;* one member shall be a person involved at the retail sales level of food in the [special supplemental food program] *special supplemental nutrition program;* two members shall be officials of the Department of Health and Human Services appointed by the Secretary of Health and Human Services; two members shall be officials of the Department of Agriculture appointed by the Secretary; 1 member shall be an expert in the promotion of breast feeding; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.

(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health and Human Services shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning

with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(l) Foods available under section 416 of the Agriculture Act of 1949 [(7 U.S.C. 1431)], including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935 [(7 U.S.C. 612c)] may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.

(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

(B) ensure coordination of the program among the appropriate agencies and organizations.

(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program, which may be satisfied from State contributions that are made for similar programs. *The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.*

(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients pro-

posed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each approved State plan, and need not award grants to each State that submits a State plan.

(5) Each State that receives a grant under this subsection shall ensure that the program for which the grant is received complies with the following requirements:

(A) Individuals who are eligible to receive Federal benefits under the program shall only be individuals who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

(B) Construction or operation of a farmers' market may not be carried out using funds—

(i) provided under the grant; or

(ii) required to be provided by the State under paragraph (3).

(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

(i) less than $10 per year; or

(ii) more than $20 per year.

(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

(i) the highest concentration of eligible individuals;

(ii) the greatest access to farmers' markets; and

(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary and that maximize the availability of benefits to eligible individuals.

(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

(i) redeemed only by producers authorized by the State to participate in the program; and

(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program in any fiscal year not more than [15 percent] *17 percent* of the total amount of program funds.

[(ii) During the first fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i). During any fiscal year other than the first fiscal year for which a State receives assistance under this subsection, upon the showing by the State of financial need, the Secretary may permit the State to use not more than 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i).]

(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State

to use up to 1 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables.

(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

(6)(A) Each State that received assistance under the demonstration program authorized by this subsection in a fiscal year ending before October 1, 1991, shall receive assistance under this subsection if the State complies with the requirements established by this subsection, as determined by the Secretary. *The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.*

(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

(ii) If amounts appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least **[**$50,000**]** *$75,000* or the amount that the State received for the prior fiscal year if that amount is less than **[**$50,000**]** *$75,000*.

(C) In providing funds to serve additional recipients in a State that received assistance under this subsection in the previous fiscal year, the Secretary shall consider—

(i) the availability of any such assistance not spent by the State during the program year for which the assistance was received;

(ii) documentation that justifies the need for an increase in participation; and

(iii) demonstrated ability to satisfactorily operate the existing program.

(D)(i) A State that desires to receive a grant under this subsection shall submit, for each fiscal year, a State plan to the Secretary **[**at such time and in such manner as the Secretary may reasonably require**]** *by November 15 of each year*.

(ii) Each State plan submitted under this paragraph shall contain—

(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

(II) a description of the State plan for complying with the requirements established in paragraph (5); and

(III) criteria developed by the State with respect to authorization of producers to participate in the program.

(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

(i) favorably consider a State's prior experiences with this or similar programs;

(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not [reduce in any fiscal year] *reduce, in the first full fiscal year of the Federal grant,* the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

(iv) give preference to State plans that would serve areas in the State that have—

(I) the highest concentration of eligible persons;

(II) the greatest access to farmers' markets;

(III) broad geographical area;

(IV) the greatest number of recipients in the broadest geographical area within the State; and

(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

(G)(i) An amount equal to [45 to 55 percent] *60 percent* of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

(ii) An amount equal to [45 to 55 percent] *60 percent* of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

(iii) In any fiscal year, any funds that remain unallocated after satisfying the requirements of clauses (i) and (ii) shall be reallocated in the following fiscal year according to procedures established pursuant to paragraph (10)(B)(ii).

(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

(8) For each fiscal year, the Secretary shall collect from each State that receives a grant under this subsection information relating to—

(A) the number and type of recipients served by both Federal and non-Federal benefits under the program for which the grant is received;

(B) the rate of redemption of coupons distributed under the program;

(C) the average amount distributed in coupons to each recipient;

[(D) when practicable, the impact on the nutritional status of recipients by determining the change in consumption of fresh fruits and vegetables by recipients;

[(E) the effects of the program on the use of farmers' markets and the marketing of agricultural products at such markets and when practicable, the effects of the program on recipients' awareness regarding farmers' markets; and]

(D) if available, information on the change in consumption of fresh fruits and vegetables by recipients;

(E) if available, information on the effects of the program on farmers' markets; and

(F) any other information determined to be necessary by the Secretary.

(9)(A) The Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a compilation of the information collected under paragraph (8).

(B) The compilation required by subparagraph (A) shall be submitted on or before April 1, 1994.

(10)(A) There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and [$8,000,000 for fiscal year 1994] *$8,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, $12,500,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, and $18,000,000 for fiscal year 1998.*

(B)(i)(I) Except as provided in subclause (II), each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unexpended funds shall be returned to the Secretary by February 1st of the following fiscal year.

(II) Notwithstanding any other provision of this subsection, a total of not more than 5 percent of funds made available to a State for any fiscal year may be expended by the State to reimburse expenses incurred for a program assisted under this subsection during the preceding fiscal year or may be retained by the State to reimburse expenses expected to be incurred for such a program during the succeeding fiscal year.

(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i). [Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.]

(11) For purposes of this subsection:

(A) The term "coupon" means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

(B) The term "program" means—

(i) the State farmers' market coupon nutrition program authorized by this subsection (as existed on September 30, 1991); or

(ii) the farmers' market nutrition program authorized by this subsection.

(C) The term "recipient" means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection, or who is on a waiting list to receive such benefits.

(D) The term "State agency" has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State *or any other agency approved by the chief executive officer of the State.*

(n)(1) The Secretary, before the end of the 6-month period beginning on the date of the enactment of the Anti-Drug Abuse Act of 1988, shall, directly or through grant or contract, conduct a study with respect to appropriate methods of drug abuse education instruction.

(2) The Secretary shall—

(A) directly, or through grant or contract, prepare materials for purposes of drug abuse education provided under this section; and

(B) distribute the materials prepared under subparagraph (A) to each State agency for distribution to local agencies participating in the program under this section.

(3) There is authorized to be appropriated—

(A) $500,000 for the fiscal year 1989 for purposes of carrying out the study required by paragraph (1);

(B) $2,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of preparing drug abuse education materials as required by paragraph (2)(A); and

(C) $6,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of—

(i) distributing drug abuse education materials as required by paragraph (2)(B); and

(ii) making referrals under drug abuse education programs.

(4) The State agency, in each fiscal year, shall provide drug abuse education to participants in the program under this section commensurate with amounts appropriated for such fiscal year pursuant to the authorizations contained in paragraph (3).

(o)(1) Subject to the availability of funds appropriated for the purpose of carrying out this subsection, the Secretary is authorized to establish a demonstration program for the establishment of clinics for participants in the program under this section at community colleges that offer nursing education programs. In determining the location of clinics under this subsection, the Secretary shall consider—

(A) the location of the community college under consideration;

(B) its accessibility to individuals eligible to participate in the [special supplemental food program] *special supplemental nutrition program* under this section; and

(C) its willingness to operate the clinic during nontraditional hours.

(2) The Secretary shall, from funds appropriated for the purpose of carrying out this subsection—

(A) evaluate any demonstration program carried out under paragraph (1); and

(B) submit to the Congress a report containing the results of such evaluation.

(3) There is authorized to be appropriated for purposes of carrying out this subsection $1,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

(p)(1) The Secretary is authorized to make grants to State agencies for the purpose of improving and updating information and data systems used for purposes of carrying out programs under this section.

(2) Any State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, and containing or accompanied by such information, as the Secretary may reasonably require. Grants shall be awarded based on the need demonstrated by States in their applications.

(3) There is authorized to be appropriated for purposes of carrying out this subsection $2,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.

[CASH GRANTS FOR NUTRITION EDUCATION]

SEC. 18. (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed $1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

NUTRITION EDUCATION AND TRAINING

SEC. 19. (a) Congress finds that—

(1) the proper nutrition of the Nation's children is a matter of highest priority;

(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

PURPOSE

(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition [information and education] *education and training* programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

DEFINITIONS

(c) For purposes of this section, the term "nutrition [information and education] *education and training* program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training [school food service] *child nutrition program* personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; [and] (D) developing and using classroom materials and curricula; *and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health.*

NUTRITION INFORMATION AND TRAINING

(d)(1) The Secretary is authorized to formulate and carry out a nutrition [information and education] *education and training* program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the National School Lunch Act, and (C) the conduct of nutrition education activities in schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act, *and the provision of nutrition education to parents and caregivers.*

(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of State educational agencies, the Department of Health and Human Services, and other interested groups and individuals concerned with improvement of child nutrition. 1A19 094

(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health and Human Services, the Secretary may make funds authorized in this section available to the Department of Health and Human Services to fund the nutrition education component of the State program without requiring an additional grant application.

(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of [educational and school food service personnel] *educational, school food service, child care, and summer food service personnel* with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management, in coordination with the activities authorized under section 21 of the National School Lunch Act. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques,

and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools, *and in child care institutions*, with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

AGREEMENTS WITH STATE AGENCIES

(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

USE OF FUNDS

(f)[(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.]

(1) The funds made available under this section may, under guidelines established by the Secretary, be used by a State educational agency for—

(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

(B) undertaking an assessment of the nutrition education needs of the State;

(C) developing and carrying out a State plan of operation and management for nutrition education;

(D) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

(E) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

(F) providing funding for a nutrition component in the health education curriculum offered to children in kindergarten through grade 12;

(G) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children to practice sound eating habits;

(H) developing means of providing nutrition education to children, and families of children, through after-school programs;

(I) creating instructional programming for teachers, food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

(J) encouraging public service advertisements to promote healthy eating habits for children; and

(K) achieving related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: Provided, That in order to receive additional funding, the State must carry out such responsibilities.

[(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.**]**

(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for overall administrative and supervisory or program purposes in connection with the program authorized under this section if the State makes available at least an equal amount for the expenditures.

(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

ACCOUNTS, RECORDS, AND REPORTS

(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

STATE COORDINATORS FOR NUTRITION; STATE PLAN

(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of this subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education *and training* needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; [and] (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 or the Act of August 30, 1890 including the Tuskegee Institute*; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years*. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings. Each plan developed as required by this section shall be updated on an annual basis.

APPROPRIATIONS AUTHORIZED

(i)(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition [education and information] *education and training* programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than $75,000 per year.

(2)(A) There is authorized to be appropriated for grants to each State for the conduct of [nutrition education and information programs—

[(i) $10,000,000 for the fiscal year 1990;

[(ii) $15,000,000 for the fiscal year 1991;

[(iii) $20,000,000 for the fiscal year 1992; and

[(iv) $25,000,000 for each of the fiscal years 1993 and 1994.] nutrition education and training programs $10,000,000 for fiscal year 1995 and each subsequent fiscal year.

(B)(i)(I) Subject to clause (ii), grants to each State from the amounts appropriated under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within such State.

(II) If the amount appropriated for any fiscal year is insufficient to pay the amount to which each State is entitled under subclause (I), the amount of each grant shall be ratably reduced. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

(ii) No State shall receive an amount that is less than—

(I) $50,000, in any fiscal year in which the amount appropriated for purposes of this section is less than $10,000,000;

(II) $62,500, in any fiscal year in which the amount appropriated for purposes of this section is $10,000,000 or more but is less than $15,000,000;

(III) $68,750, in any fiscal year in which the amount appropriated for purposes of this section is $15,000,000 or more but is less than $20,000,000; and

(IV) $75,000 in any fiscal year in which the amount appropriated for purposes of this section is $20,000,000 or more.

(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.

[(3)] *(4)* Enrollment data used for purposes of this subsection shall be the latest available as certified by the Department of Education.

[ASSESSMENT]

(j)(1) The Secretary shall assess the nutrition information and education program carried out under this section to determine what nutrition education needs are for children participating under the National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 20. (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

(b) The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.

SEC. 21. BREASTFEEDING PROMOTION PROGRAM.

(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

(d) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.

FOOD STAMP ACT OF 1977

SEC. 1. * * *

SEC. 2. * * *

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APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 9. (a)(1) * * *

(b)(1) * * *

(c) Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act, except that such information may be disclosed to and used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this Act or any other Federal or State law and the regulations issued under this Act or such law, and State agencies that administer the **[**special supplemental food program**]** *special supplemental nutrition program* for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966, for purposes of administering the provisions of that Act and the regulations issued under that Act. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

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WIC INFANT FORMULA PROCUREMENT ACT OF 1992

SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

SEC. 202. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of prancing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the [special supplemental food program] *special supplemental nutrition program* for women, infants, and children (WIC).

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[SEC. 209. TERMINATION.

[The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).]

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

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SEC. 685. (a) * * *

(b) COMPOSITION.—The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.A. § 6000 et seq.];

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the [*Special Supplemental Food Program for Women, Infants and Children*] of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Substance Abuse and Mental Health Services Administration;

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

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TITLE 31 U.S.C. SECTION 3803(c)(2)(C)(x)

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(C) For purposes of this subsection, the term "benefits" means—

(i) benefits under the supplemental security income program under title XVI of the Social Security Act;

(ii) old age, survivors, and disability insurance benefits under title II of the Social Security Act;

(iii) benefits under the title XVIII of the Social Security Act;

(iv) aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;

(v) medical assistance under a State plan approved section 1902(a) of the Social Security Act;

(vi) benefits under the title XX of the Social Security Act;

(vii) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977);

(viii) benefits under chapters 11, 13, 15, 17, and 21 of title 38;

(ix) benefits under the Black Lung Benefits Act;

(x) benefits under the [*special supplemental food program*] for women, infants, and children established under section 17 of the Child Nutrition Act of 1966;

(xi) benefits under section 336 of the Older American Act;

(xii) any annuity or other benefit under the Railroad Retirement Act of 1974;

(xiii) benefits under the National School Lunch Act;

(xiv) benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administrated by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

(xv) benefits under the Low-Income Home Energy Assistance Act of 1981; and

(xvi) benefits under part A of the Energy Conservation in Existing Buildings Act of 1976,

which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

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PUBLIC HEALTH SERVICE ACT

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SEC. 399. (a) * * *

(b) HOME VISITING SERVICES FOR ELIGIBLE FAMILIES.—With respect to an eligible family, each of the following services shall, directly or through arrangement with other public or nonprofit private entities, be available (as applicable to the family member involved) in each project operated with a grant under subsection (a) of this section:

(1) Prenatal and postnatal health care.

(2) Primary health care for the children, including developmental assessments.

(3) Education for the parents concerning infant care and child development, including the development and utilization of parent and teacher resource networks and other family resource and support networks where such networks are available.

(4) Upon the request of a parent, providing the education described in paragraph (3) to other individuals who have responsibility for caring for the children.

(5) Education for the parents concerning behaviors that adversely affect health.

(6) Assistance in obtaining necessary health, mental health, developmental, social, housing, and nutrition services and other assistance, including services and other assistance under maternal and child health programs; the [special supplemental

food program] *special supplemental nutrition program* for women, infants, and children; section 1786 of this title; title V of the Social Security Act [42 U.S.C.A. § 701 et seq.]; title XIX of such Act [42 U.S.C.A. § 1396 et seq.] (including the program for early and periodic screening, diagnostic, and treatment services described in section 1905(r) of such Act [42 U.S.C.A. § 1396(r)]; title IV and XIX of the Social Security Act [42 U.S.C.A. § 601 et seq. and § 1396 et seq.]; housing programs; other food assistance programs; and appropriate alcohol and drug dependency treatment programs, according to need.

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SOCIAL SECURITY ACT

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SEC. 1902. (a) * * *

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(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan, (B) provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments under (or through an allotment under) subchapter V of this chapter, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such subchapter or allotment and which are included in the State plan approved under this section (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to the individual under section 1396b of this title, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services, and (C) provide for coordination of the operations under this subchapter, including the provision of information and education on pediatric vaccinations and the delivery of immunization services, with the State's operations under the [special supplemental food program] *special supplemental nutrition program* for women, infants, and children under section 1786 of this title;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

* * * * * * *

(53) provide—

(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 1786 of this title), or children below the age of 5, of the availability of benefits furnished by the [special supplemental food program] *special supplemental nutrition program* under such section, and

(B) for referring any such individual to the State agency responsible for administering such program;

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